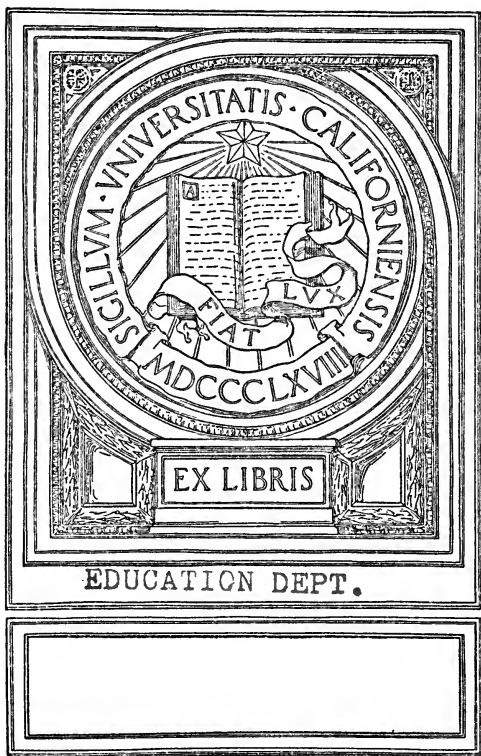
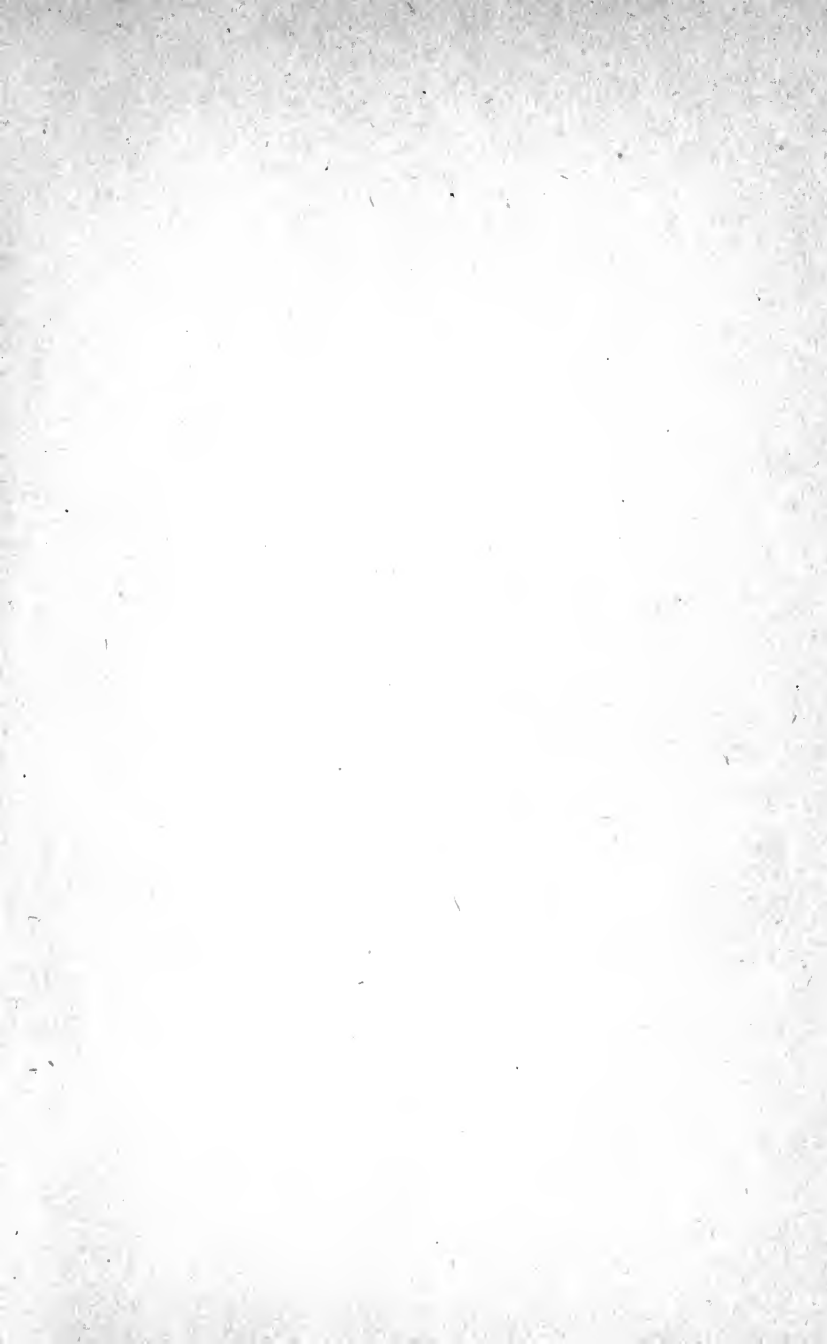




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# THE ART OF DEBATE

BY

RAYMOND MACDONALD ALDEN, PH.D.

ASSOCIATE PROFESSOR IN LELAND STANFORD  
JUNIOR UNIVERSITY



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TO  
**James Parker Ball**  
AND  
**Joseph Parker Warren,**  
BOTH  
EX-PRESIDENTS OF THE "HARVARD UNION,"  
ADMIRABLE DEBATORS,  
AND  
PEERLESS FRIENDS.

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## PREFACE.

A LARGE part of the contents of this book is based on material originally prepared for students of argumentation at Harvard College and the University of Pennsylvania. The interest lately developed in the practice of formal debate, together with the interest in general debate which is always found in democratic communities, has suggested that the discussion of such a subject, revised so as to meet the needs of others besides college students, may be of service to various kinds of readers. In its present form, then, the book is designed to be helpful to those interested in any form of debate.

If any consideration may be claimed for the particular manner in which the subject is treated, at a time when of the making of many books of rhetoric there is no end, it is hoped it may be for its practical character. The great part of the contents has been drawn directly from the writer's experience as a participant in and an observer of debates. In the arrangement of material, where there is any difference between the order of theory

and the order suggested by common practice, the latter has been preferred. The temptation to be highly systematic, at the expense of every other consideration, besets the writer of anything like a text-book. It is so fascinating to discover that figures of speech may be classified under twenty-nine heads, that methods of proof may be reduced to a table of seventeen divisions and sub-divisions, and that gestures—analyzed to the utmost—are just forty-five in number, that no little self-control is required to abstain from inflicting such classifications on one's students or readers. The subject of argumentation, being related to the science of logic, is peculiarly susceptible of artificial treatment. But the aim of the present writer has been, while placing stress on systematic presentation, to look at the whole subject less from the standpoint of the theorist than from that of the practical debater.

It is for just this reason that legal argument has been largely taken as the basis for the general subject of debate. It is in the profession of the law that the art of debate has for a long time achieved a highly practical development, and in that profession only. Philosophers have seldom been successful debaters, just as rhetoricians are seldom distinguished writers, and professional elocutionists seldom orators. But in the law public debate has been forced to



cut a straight path toward success, and we may look to it for guidance—while not necessarily trying to master its artificial system—whenever our object is to convince and persuade practical men. On the other hand, the law has much to learn from logic and rhetoric. Many who are proficient in its subject-matter are quite unfamiliar with the art of using their knowledge effectively. “The time will soon come,” said a distinguished lawyer recently, “when our law schools will have to teach their students not only the law, but also the art of selecting and arranging their arguments, and of presenting them with convincing effect.”

There is a sense in which a hand-book of any art is either inadequate or superfluous. Good debaters, like most good folk, are not to be made to order. It may be said of them as in the famous recipe for cooking hare: *first catch your man*. It is vain to write rules for one who has neither a knack at reasoning or a gift of expression. But the experience of schools and colleges where regular courses in debate have been established indicates that rudimentary endowments, both of reason and expression, may be so developed under intelligent training as to produce unexpectedly happy results. It must, however, be understood that for every precept there must be a dozen, or a hundred, opportunities for practice.

Readers familiar with the literature of this

subject will not need to be told of my indebtedness to "The Principles of Argumentation," by Professor George P. Baker, who was the first, so far as I am aware, to develop a practical system of instruction in argumentation. Especially in the treatment of analysis and allied matters, in the chapter on "Preliminary Work," I have made use of Professor Baker's presentation of the same subject. Other books which have been found helpful are Professor Sidgwick's "Process of Argument," Professor Thayer's "Preliminary Treatise on Evidence at the Common Law," the Rhetorics of Professors A. S. Hill and J. F. Genung, and Professor Wendell's "English Composition." I may also recommend to those interested in the subject Holyoake's "Public Speaking and Debate" (Ginn & Company), Sheppard's "Before an Audience; or, the Use of the Will in Public Speaking" (Funk & Wagnalls), and Buckley's "Extemporaneous Oratory for Professional and Amateur Speakers" (Eaton & Mains),—all suggestive and thoroughly readable books. Thanks are also to be recorded for most friendly and helpful advice received from Dean William Draper Lewis, and Professor George Wharton Pepper, of the Law School of the University of Pennsylvania.

It will be found helpful to use a manual like this in connection with a good collection of specimens of argument, such as Baker's "Specimens of Argu-

mentation," Wagner's "Modern Political Orations" (Henry Holt & Co.), or Johnston's "Representative American Orations" (Putnam's). But the chief point is constant practice under competent criticism

R. M. A.

PHILADELPHIA, March, 1900.



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# THE ART OF DEBATE.

## I.

### NATURE OF DEBATE.

IF argumentation is the art of convincing others of the truth or falsity of a disputed matter, debate may be said to be the art of doing this What Debate is. under conditions such that both sides of the case can be heard and that the advocates of each side can reply directly to those of the other. It is clear that, while such debate can be carried on through written arguments, it is best adapted to the conditions of public speech; and it is to such conditions that the word is commonly applied.

In its simplest form debate is universally practiced; for its use depends only on the fact that different men look at many matters from The Basis of Debate. different points of view, while nevertheless it is always assumed that they can reach the truth by precisely similar processes. If I should differ with a friend on a point the truth of which is beyond human attainment, it would be useless for us to debate it; and in the same way if the

truth were believed to be attainable, and yet if my friend and I were so differently constituted that we could never arrive at truth by the same path, argument would be equally out of place. But as a matter of fact, experience shows that, while from a superficial point of view there are a thousand different methods of forming opinions, yet all men reason by what are fundamentally the same processes. If, then, I have discovered the truth for myself, I may with confidence undertake to lead my friend along the path which I followed in search of it. Once granted that the path is a clear one, and that we are both perfectly reasonable beings, and we cannot fail to arrive at the same point in the end.

But while, from this point of view, argumentation is so simple and so universal a process, from another it is an art of some difficulty and complication. Real men are never perfectly reasonable beings: their reasoning processes are modified by inheritance, education, or personal interest. And few disputed matters are so easily determinable that one who does not understand something of the laws of argument will be able to convince another who sees them in a different light from himself. When we add to this the problem of convincing whole groups of men, and the further problem of meeting attacks on one's opinion at the very moment when they are made, the matter becomes a

large one. So it happens that in every period and in every community there are but a few skillful debaters, and that they are likely to be among the most useful and the most prominent members of society. They are especially notable in self-governing communities, where large bodies of people have not only to decide questions but to act as a unit upon their decision; here the orator and the debater become leaders of men.

The mental habits which go to make a good debater are of the highest type, and are usually developed only by considerable training.

They involve: the ability to find out as What  
Debate  
Involves. well as to defend the truth, the ability to analyze keenly and sift the essential from the trivial, the willingness to consider questions apart from the prejudices with which one is tempted to view them, and finally, the power of expression. To these must be added, for one who will be successful in active debate, the ability to decide quickly which of two or three possible lines of attack shall be chosen, and the power of rapidly arranging one's thoughts in a way to make them seem reasonable to others. These are not every-day qualities. It is sometimes distressing to reflect how few of one's acquaintances are in the habit of forming their opinions apart from personal interests, inherited tastes, popular opinion, or other forms of prejudice. Not one man in ten or twenty does anything of the

kind. It is one of the highest aims of education to bring about conditions under which opinions will be held because they have been legitimately earned, not lazily inherited or borrowed. This judicial habit of mind is the deadliest foe to popular fallacy, eloquent sophistry, and the like—to all doctrines which, on analysis, prove to be logical tramps, without visible means of support. Again, the judicial habit of mind is frequently found without the accompanying gift of expression. We are all acquainted with people who can reason fairly well but are perfectly incapable of imparting their reasons to any one else. They cannot so much as give clear directions for finding a given street and number, without resorting to diagrams or gestures to atone for inadequate statement. Clever people make up for deficiency in this respect by various devices,—by wit and humor, it may be, or perhaps by bluster and bravado; in such ways they may make a good impression, but without the ability to *express processes of reasoning* they cannot produce permanent results. The good debater, then, must be able both to find reasons and to give them.

When we look a little more closely at the work of the debater, we see that it consists in something more than the expression of a train of reasoning, or even the ability to make others admit that one's reasoning is correct. One may wish to induce his hearers not only to agree

Conviction  
and Persua-  
sion.

to his doctrine but to *act* upon it; and experience shows that action does not by any means always follow conviction. But further, even when no action is desired, it is not enough merely to force admissions; for, as the familiar saying has it, one who is convinced *against his will* is (fundamentally) "of the same opinion still." From these considerations it has become common to say that the two great divisions of argument are Conviction and Persuasion. The first has to do with the ability to show that one's reasoning is right; the second with the power to dispose one's hearers to accept the reasoning as their own, and—if need be—to act upon it. It may be that this conquest of the disposition will come after the conquest of the intellect, or it may be that it must come first in order to make the conquest of an obstinate intellect possible.

Let us take an example. A citizen of a western State, we will suppose, who has been educated to believe in a silver basis for our national finance, goes to hear a speaker defend the gold standard. The arguments advanced are so powerful, standing by themselves at least, that it is impossible for the listener to avoid the conviction that his position has been overthrown. This, however, is not enough. If the speaker treats the advocates of silver with such scorn that the man in the audience feels himself personally ill-treated, or if the interests of the class or section

The Power  
of Persua-  
sion.

which he represents are entirely neglected in the argument, our hearer will go away with much the same feeling that he would have if he had been knocked down by a stronger man in a controversy. He will feel incapable, perhaps, of self-defense, but will still be utterly without sympathy for the position of his opponent. If, on the other hand, the speaker should exhibit such sympathy with his opponents as to create the impression that all classes of citizens are equally his friends, and if he should show a conciliating appreciation of the way in which the advocates of a silver standard come to take the position that they do, his hearer might not only be forced to admit himself in the wrong, but actually be well disposed to submit himself to the guidance of the other's mind. It should never be forgotten that such weapons as scorn and sarcasm, while they may relieve the feelings of one who knows himself beaten, or serve to entertain the friends of one who is certain of victory, cannot be safely used against those whom one wishes to win over to his own side.

These two elements, then, the power of reaching the reason, and the power of winning the disposition and moving the will, belong side by side in all successful debate. It is not that one part of a speech is to be given up to the one, and another part to the other; but that the whole, both in matter and manner, is to be

Danger of  
Conviction  
or Persua-  
sion alone.



made to serve the ends of each. With either neglected the full effect cannot be secured. What has already been said has perhaps indicated sufficiently the danger of mere conviction without persuasion. The opposite fault is even more serious. Many debaters who feel forcibly the necessity of winning the sympathy of their audience, depend too entirely—especially if they are gifted in promoting good-nature or arousing passion—upon this side of their work. Debate that is purely persuasive will leave results uncertain, temporary, and unjust: *uncertain*, because emotions are of themselves much more variable than the processes of reason; *temporary*, because when the emotion aroused by eloquence has passed away, if there be no deposit of rational conviction, no reliance can be placed upon the future attitude of those addressed; and *unjust*, because a gifted speaker can make appeals both alluring and deluding, on behalf of the most unrighteous cause, and lead the careless hearer, who fails to perceive the absence of real argument, into humiliatingly untenable positions. The temptation to substitute the mere auxiliaries of debate for its solid matter—the great temptation of the campaign orator and the demagogue of every class—will be carefully shunned by the keen and honest thinker. In the case of popular audiences it may win temporary success; but before trained hearers, such as judges in courts of law or any

highly intelligent bodies, it is perilous from first to last. Individuals differ greatly among themselves as to the element of debate on which they are likely to lay most stress. One will be disposed to pursue the rigid essentials of a discussion, without appreciating the chance of making it attractive. Another will seize upon the elements susceptible of emotional or rhetorical treatment, and slight the essentials. Each should guard against his particular temptation, and strive after a finished whole.

It must be evident from all this why we speak of the *art*, not the science, of debate. It is true that

reasoning must proceed on scientifically accurate lines, and that there is a science dealing with the laws of its procedure, called Logic. But to state and classify these laws is an after-thought. Logic looks back over the paths which every one's mind has trod, and describes them, not so much to furnish guides for future travelers as from scientific curiosity. Its processes must be rigidly followed, but they can usually be assumed to be familiar, without regard to knowledge of their Latin names. The mediæval theologians and philosophers believed that they could demonstrate all truth by the processes of formal logic, but their works are read to-day only for historical reasons. Their formal processes have never proved practically fruitful. In every age men are obliged to attack freshly the doubtful matters

Science and  
Art Dis-  
tinguished.

that arise before their minds, and to reason them out according to the circumstances in which they find themselves. In every age those who would change and direct the opinions of others have to go about it from the *human* point of view; that is to say, they have to apply the universal processes of reasoning to the particular people with whom they have to deal, and adapt them to constantly changing conditions. So it is that debate is an art, and cannot be mastered by the aid of mere rules, but admits of almost infinite variation and development. In this respect it is like music and poetry and painting; but on the other hand, just as any of these can be studied and analyzed and practiced, so in debate it will not be useless to take up the subject in a systematic way.

These, then, are the problems we have to consider:—the use of the universal laws of reasoning, the development of the habit of analysis and of unprejudiced methods of investigation, the secret of clear and rapid expression of intellectual processes, and the art of adapting one's material to his hearers so as to win their favor and affect their conduct. Clearly the art that involves all this is of no mean order. It goes further than those which reach only the intellect or the emotions, and aims to move the will. Its masters have the power that makes leaders of men.

## II.

### SUBJECTS OF DEBATE.

DEBATE differs from other forms of discourse in presupposing two sides for the subject discussed, both of them capable of fair presentation. It has an antagonist constantly in mind.

Propositions  
as Subjects  
for Debate.

The subject for debate, then, must be such that it can be reduced to the form of a proposition; for a proposition is the only form of words which has two distinct sides, an affirmative and a negative. All matters which men discuss argumentatively, whether in courts of law, deliberative bodies, or private life, can in fact be reduced to such a proposition; and to so reduce them often clears the ground of discussion very serviceably. The principal verb of the proposition will state the affirmative; if a negative word is added, it will state the negative. If the question is one of pure fact, the verb will commonly be the verb *to be*; if it is one of theory or policy, the verb will frequently be *ought* or some similar auxiliary. It is clear that if there is to be rational debate on the proposition, it must state something sufficiently distinct and reasonable to be capable of fair presentation, whether it be read affirmatively or reversed so as to

state the matter negatively. This is of course a very different thing from saying that both sides must be capable of positive proof.

Much debate is carried on, even in matters of public importance, with no form of words in mind as a proposition, to which disputants are rigidly held. Yet where accuracy is demanded, or where a decision of any sort is to be rendered for one side or the other, such a form of words is almost necessary. So in courts of law we find indictments, motions, pleas, and the like, the wording of which is scrutinized with the utmost care, and to the exact discussion of which the disputants are restricted. In like manner we have motions, bills, and resolutions in deliberative bodies, which are intended to represent accurately the real question to be discussed. In all these cases the quality of debate is at its best, it need hardly be observed, when the form of words discussed represents most perfectly the real question at issue.

In real life questions at issue arise from circumstances usually beyond the control of the disputants, and the only problem is to state them and analyze them as clearly as may be. But where debate is engaged in for practice, as in literary organizations, intercollegiate contests, and the like, the subjects debated are chosen, broadly speaking, by those who are to discuss them. With such cases in mind, a few sugges-

Subjects to  
be Avoided.

tions may be made regarding debatable subjects. Let us put these in the form of warnings against certain sorts of topics which are to be avoided for formal debate.

1. *Obvious propositions.* As a matter of practice it may sometimes be instructive to demonstrate a generally accepted truth, as in the case of a geometrical theorem. But it is clear that an intelligent debate cannot be held on the question, "*Resolved*, That the sum of the three angles of a triangle is always equal to two right angles." Neither can one debate successfully the statement that temperance is a useful virtue, or that the cruelties of the Turks are reprehensible, or that Shakespere was a great poet. Yet it is not uncommon to hear debates on propositions whose obviousness is concealed only by verbal ingenuity. It is not inconsistent with this to say that an obvious truth may be the foundation for the argument on one side or another of a disputed matter, so that it may be necessary to give some time to its exposition at the outset. But this is only preliminary to the argument proper.

2. *Propositions the truth of which depends wholly on the meaning of some ambiguous word or words.* In such cases the meaning of the word may be a legitimate subject for discussion, but the proposition involving the word cannot really be debated until the doubtful meaning has been settled; and the

proposition will then have been shown to be true or false by the very act of definition. There is nothing more unprofitable than a debate in which much time is spent in wrangling over the interpretation of some ambiguous term. Thus the question, "*Resolved*, That the Monroe Doctrine should receive the support of every American," would depend wholly on the interpretation of the phrase "Monroe Doctrine," upon which there is by no means general agreement. In a debate the two sides would be likely to disagree utterly in their exposition of the question; while they might find themselves without cause for dispute if they could agree on a definition. The question, "*Resolved*, That Mr. Cleveland's interpretation of the Monroe Doctrine in the Venezuelan boundary question should receive the support of every American," would be more easily handled.

3. *Propositions the truth or error of which is practically incapable of demonstration.* By this it is not meant to include questions dealing with matters where evidence is difficult to obtain and final proof usually admitted to be only approximate, such, for example, as the question of the immortality of the soul. Such matters need to be discussed with great caution, their limitations being frankly admitted, but there is no reason why they may not be well argued on both sides. On the other hand, questions whose wording is such as to give neither side

reasonable hope of refuting the position of the other, are unsuitable for debate. An example is the old question, "*Resolved*, That the pulpit affords more opportunity for eloquence than the bar." The natural course of events in a debate on such a proposition would be for the affirmative to heap up examples of ecclesiastical eloquence, and the negative to rejoin with accounts of forensic oratory. Each side might also adduce certain disadvantages in the opposing profession; but there could be no adequate proof or adequate refutation. The proposition makes a comparison, but no standard of comparison could be found by which to make any definite demonstration; and the only consolation for the audience would be that the question is one of no real moment to any human being. In like manner, vague questions of taste, such as the comparative value of the work of certain poets, and the like, while they may be interesting topics for general discussion, are unsuited to formal debate.

4. *Propositions involving more than one main issue.* Such questions cannot always be avoided in real life, but when one has a choice of subjects they are to be shunned. The difficulty is sufficiently obvious. They need to be treated as motions are frequently treated in deliberative bodies,—that is, divided on the demand of some member who perceives the difficulty of debating more than one thing at a time. A proposition for debate, then,



should not be a compound sentence, nor a complex sentence whose subordinate clause contains anything not necessary for the explanation of the principal clause. An example of the first sort of error would be: "*Resolved*, That the United States should annex Cuba and establish therein a colonial form of government." Of the second sort: "*Resolved*, That the supporters of the Populist party have substantial grievances which their movement is likely to relieve." Questions of this kind are not impossible for debate, but they become dangerously confusing, especially when it is desired to win a decision on the merits of the argument. A question may even be, on its face, a simple statement, and yet involve more than can well be treated in one discussion; nay, it may include matters inconsistent with one another from the point of view of argument. An interesting example of this occurred in 1895, when two college societies agreed to hold a joint debate on the question: "*Resolved*, That the foreign policy of President Cleveland should be approved." The debaters chosen felt some difficulty, from the first, owing to the fact that a foreign policy is not a single, concrete affair, but must be judged from a number of isolated acts. In this case there were involved the matter of our relations with the provisional government of Hawaii, the Behring Sea difficulties, the non-recognition of the Cuban republic, the dispute between Great

Britain and Nicaragua, and the attitude of our government toward the disorders in Turkey. If all of these things could be unified by showing them to be consistent elements of a single line of conduct, the question might be intelligently discussed in a single debate. It seemed that most of them could be so unified. In most, if not all, of these cases, the attitude of the administration had been essentially conservative, avoiding all interference or international entanglements. The affirmative therefore made preparations to defend such conservatism, and the negative to demand a more vigorous and aggressive policy. Even then the question was a large one. But a few weeks before the debate was to take place, President Cleveland issued his Venezuelan message, and confusion was worse confounded. This was an act hard to reconcile with the generally conservative administration of our foreign relations, and if the debaters were to pursue their original plans they must either ignore this event which had aroused universal interest, or must pass lightly over the previous acts of the administration. The dilemma was so serious that the debate was abandoned altogether. It is clear, then, that if it is necessary to debate a proposition involving more than one essential issue, it must first be determined whether the different matters involved are capable of being grouped under one general principle; and, if they are not, it must

be determined which is to have precedence in deciding the issue.

5. *Propositions devoid of interest to the audience addressed.* To warn against such themes may seem superfluous, but experience shows that the warning is not needless. The root of the difficulty is in thinking of debate as an ingenious exercise rather than a practical means to an end. Any trace of the former feeling will result in formality and artificiality, the great enemies of good speaking. No question is fitted for public discussion which is merely theoretical. The proposition should have arisen in reality, and the debaters should be able to make clear how it arose and why it should claim attention. Not long ago two societies held a joint debate on the question, "*Resolved, That Ambition is productive of more good than evil.*" The speakers were eloquent and ingenious, but there hung a dead weight on the whole proceeding from the fact that no one in the world was seriously discussing such a problem, or would care how it might be decided. Observe, too, that the question violated two of our previous rules. Its solution depended absolutely on the meaning of the vague word "ambition," and it was incapable of demonstration for lack of any practical measure of comparison. Both sides fired harmless shots past their enemy's lines, and made little effort to hit each other.

Subjects for debate, then, when they are matter for choice, should be single, unambiguous propositions, capable of approximate proof or disproof, and of some genuine interest to those concerned.

Qualities of  
good Sub-  
jects.

Let us now briefly consider the *wording* of the proposition, when its general nature has already been determined. A few suggestions may be added to those implied in what has already been said. The subject for de-

The Word-  
ing of the  
Proposition.

bate should usually be stated affirmatively, except in a case where the negative bears the burden of proof,—that is, where the negative has, on the face of it, the duty of presenting proof before the affirmative is bound to reply. Reasonable economy of time demands that the first speaker should not be obliged to defend what is assumed to be true until proved otherwise. For this reason the resolution discussed a moment ago might better have been worded: “*Resolved*, That Mr. Cleveland’s foreign policy should be condemned.” It was embarrassing for the affirmative to defend that which had not yet been attacked. A college debate on the question, “*Resolved*, That it is inexpedient for the United States to enter into a treaty of alliance with Great Britain,” was a failure because neither side—owing to the negative wording of the proposition—felt obliged to open up the question and propose some particular sort of

Affirmative  
Form.

treaty for adoption. On the other hand, a successful intercollegiate debate was held on the question: "*Resolved*, That the interests of the United States are opposed to the permanent control of any portion of the Eastern Hemisphere." Although the proposition seemed to be phrased negatively, yet the affirmative had something definite to prove, and accepted the responsibility. It was not simply the negative of the statement, "Interests favor permanent control;" it was a declaration of a policy. Propositions, then, should be so stated that definite progress will have been made at the end of the first speech.

Beyond this, the most important rule for the wording of the question is that it shall be as brief as exactness will permit. There is always a struggle between the requirement that everything essential shall be included, and the requirement that the phrasing shall not be so overloaded as to fail of conveying a distinct idea at a single stroke. It is surprising what difficulty is frequently found in expressing what seems to be a perfectly clear idea. The chief danger is that, all unexpectedly to those who state the question, the main emphasis of the discussion may fall upon what was intended to be no part of the subject, or at most a minor one. Every one has heard debates that have taken this unforeseen and embarrassing turn. Sometimes much time is wasted in quibbling

over the meaning of an important word in the proposition. Whenever it is possible to do so, debaters on both sides should come to a preliminary agreement as to the real meaning of the question; for, while different interpretations may give rise to ingenious fencing, they will only hinder genuine argument. Reasonable persons do not debate *words*, but *ideas*. When a debate is to be held for purposes of practice, or whenever it is possible to limit the terms of the question under discussion, it is well to exclude side issues from consideration, and fix the argument upon what seems the central issue. Thus, when an intercollegiate debate was to be held on the question of the annexation of Hawaii, it was feared that the discussion might be made scattering by the introduction of such matters as the benevolent attitude of our people toward the Hawaiians, or the difficulty of ascertaining the real wishes of the Hawaiians on the subject. These matters were therefore ruled out by the addition of certain words to the proposition, so that it read, not, "The United States should annex the Hawaiian Islands," but, "It would be for the best interests of the United States to annex the Hawaiian Islands, granted the free consent of their inhabitants." Obviously the question before the people of the country was the original and wider one, and could not be limited in any such way; but for a brief and formal debate it was wise to limit discus-

sion to the most important phase. In such cases the wording of the proposition should make clear whether the question is one of fact or of policy; if of policy, whether abstract grounds of justice or grounds of expediency are chiefly to be considered; and if expediency, whose interests are to have precedence. Otherwise the debaters on respective sides may argue what are really different propositions.

The last rule to be laid down relative to the wording of the proposition is that all "begging of the question" is to be avoided. In its narrowest sense this means that no word must be admitted into the proposition Fairness and Impartiality. which of itself constitutes an argument for or against the proposition. Such a question would be: "*Resolved*, That the inhuman treatment of the Armenians by Turkey is reprehensible." Here the word "inhuman" renders all argument superfluous. In a wider sense the rule means that everything should be avoided in the statement of the question which indicates the attitude of the person stating it, by throwing the slightest commendation or slur upon either side. The necessity for this rule is perfectly obvious in a formal debate: no question can be tolerated which gives either side an evident advantage. But it should also be observed in arguments where any speaker has the right to state the question for himself. If he

wishes to be fair he should assume that there is a real question of difference to be considered, and that it will be to the advantage of every one to have that difference stated in terms acceptable to both sides. If, in his statement of it, he betrays either enthusiasm or contempt, he will be suspected of inability to do it full justice. Appearance of prejudice always discounts argument.

Briefly to summarize the foregoing suggestions: propositions for debate should be worded so that the affirmative will be under the first responsibility of proof, should be as brief as may be consistent with exactness, should make the issues involved as distinct as possible, and should avoid every appearance of partiality.

All this, while not without significance for debate of a general character, has had chief reference to formal debates where a chosen question is discussed and a decision is rendered on the merits of the argument. It has already been suggested that (with the exception that the subject of debate may well be simplified for the sake of brevity and clearness) such debates will be most satisfactory when so conducted as to approach most closely the discussions of real life. In all contests of this character there is an artificial element—especially when a strong desire for victory is involved—which is in danger of detracting from their usefulness. In real life



questions arise out of practical emergencies; they cannot always be reduced to exact forms of words; and they are not decided by a discussion between three men on one side and three on another, in which the issues are closely watched to see which has the best of it. If, then, in formal debating, stress is laid on those matters which are *peculiar* to formal debating,—quibbling over the wording of the question, rapid repartee, and the mere triumph of one speech over another,—the practice will be a questionable preparation for real life and its contests. If, however, under these artificial conditions, the stress is still laid on the merits of the question, so presented as to convince—if possible—persons really interested in its settlement, the value of the practice is very great. The difference may be compared to that between the gymnastics which are studied under professional training for purposes of exhibition, and the exercise which goes to make muscle for every-day use.

In legal debate, while the conditions are not so artificial as in formal debating contests, they are still much more artificial than in the general discussion of public affairs. The law Legal  
Debate. of English-speaking countries is a growth of long development, and its practice is hedged in by what seem at first sight to be merely traditional rules and regulations. These rules had their origin in attempts to serve the practical ends of justice, and

most of them are still useful to the same end; but to common observers they frequently seem to offer hindrances to the simple search for truth. Thus many things which are good evidence for the ordinary man as he investigates an alleged crime, are ruled out absolutely from the consideration of juries. Lawyers are forbidden to make statements in court which the newspapers make, and by which public opinion is greatly influenced. Legal "presumptions," so called, are established, which declare the age at which a person may be presumed capable of crime, the length of time which he may be presumed to remain alive after disappearing from common knowledge, and so on, with small respect for the means which private citizens use in forming judgments on the same points. In courts of law such grave interests are at stake that it is necessary to lay down these rigid rules and apply them—sometimes—even in the face of common sense. This has a marked effect on legal argument. A lawyer in striving to win his case will make use—and, according to common opinion, will be justified in making use—of all possible technicalities in his favor. If he can find a flaw in the indictment brought against his client, he will not trouble to prove him innocent. If he can overthrow the point on which his opponent has based his plea to the court, he will be content not to go into the real issue back of it; and the court, in deciding the plea,

will often expressly ignore what seems to the layman the important point of the case. Such circumstances as these seem to be unavoidable in legal procedure, where uniform rules of practice have to be adopted for all possible cases, even if the interests of justice are thereby sometimes jeopardized. But in spite of all this, those lawyers appear to be most largely successful who are not given to fighting on technicalities, but who give the impression that the fundamental merits of the case are their chief concern. A jury will listen with suspicion to an argument which seems to shirk the real issue; and even a judge, educated to weigh the very dust in the balance, will give more consideration to a motion made by an attorney known to be careful of the interests of justice, than to one made by a lover of technicalities. The great arguments of great lawyers—like Mr. Carter and Mr. Choate, for example, in our own time—are marked by an appearance of enthusiasm for justice, of consideration for the important issues at stake, which affect not only the courts addressed, but all within hearing. The most important elements of legal debate, then, are not different from those of general debate.\*

\* In support of this I am very glad to be able to cite a distinguished legal authority, Professor James B. Thayer, who in his "Preliminary Treatise on Evidence at the Common Law" observes:

"Let it be distinctly set down, then, that the whole process

Legal argument is roughly divisible into three great classes. The first class is that dealing with the proving of *facts*, and is chiefly practiced in the calling and cross-examination of witnesses. The handling of testimony, as well as of other sorts of evidence, is generally recognized as one of the most important tasks of the lawyer. The second class is that dealing with the establishment of legal principles by the citation of *authority*. Since law is in itself so much a matter of tradition and precedent, and since it is desired to maintain the utmost uniformity in the administration of justice, our courts give the greatest possible weight to the opinions of other courts having a bearing on questions brought before them. This indicates the second great task of the lawyer,—the finding and applying of authoritative precedents. The third class of legal arguments is harder to define; it consists in the application of processes of *reasoning* to the facts and the authority presented, so that jury or court may be convinced of the inference which the lawyer wishes to draw from his material. All these forms of argument are familiar even to those knowing little of courts and law. In criminal cases, for example, every one

of legal argumentation, and the rules for it, essential as these are, and forever pressing upon the attention, are mainly an affair of logic and general experience, not of legal precept." (p. 271.)

knows that the chief matter is commonly the proving of *facts* by evidence. In cases brought before higher courts on appeal, it is not usually disputed facts, but questions of legal principle, which are discussed; the only witnesses cited, therefore, are the records of other courts and the mental processes of the judges.

When we turn from both formal debating contests and legal argument to the debate of deliberative bodies and of the people as they discuss public affairs, what sort of questions General  
Debate. do we find? The difference is almost entirely one of proportion. We find people disputing questions of fact, as is done in the courts; but they commonly investigate these questions with less accuracy and thoroughness than the courts, and they use all possible sorts of evidence,—hearsay, newspaper reports, and the opinions of their friends,—in ascertaining the facts. The matters of precedent and authority, which we found looming so large in the courts, take small space in the public mind. The opinions of private citizens, and of deliberative bodies for that matter, are little bound by precedent; and the private citizen is likely to think that no authority on earth can greatly affect him in a matter of opinion. Nevertheless, the argument from authority, as we shall see hereafter, has a place in ordinary debate. And of course the sort of argument that is based on processes of rea-

soning is found in all debate. In deliberative bodies men debate questions of parliamentary law, argument on which closely resembles, in its general nature, the discussions of courts on constitutional law. Debate on all manner of public questions,—the tariff, finance, foreign policy, and the like,—involves delicate reasoning on cause and effect, human nature and natural law, as well as on principles of abstract justice. It is questions requiring action, and dependent upon disputed points either of moral principle or of self-interest, that assume in general argument a place altogether out of proportion to that which they occupy in legal debate. These questions of policy or expediency may be said to take the place, with the people at large, of the legal arguments based on authority. The public debater in a moral community appeals to the conscience of his hearers as the highest authority. He also appeals to their self-interest, as a matter having great weight, though not to be so loudly spoken of. If the two are agreed, and he can say, “First, this is right; and secondly, it is to your advantage,” he has a very strong case. But neither the one argument nor the other would be safe in a court of law. Thus a Mormon might argue in favor of polygamy on the ground that it is theoretically justifiable, and that it would be beneficial to the community. If he were on trial in a court neither argument would be admissible; however

much the judge might agree with them, he must say, "To the law and the testimony." Before a popular audience, however, the Mormon might present his case from the side of abstract justice, he might give facts drawn from polygamous communities, and he might argue from those facts that polygamy is beneficial to society; if the audience were of his own people, he might also cite the authority of religious books. So through all sorts of questions these different types of argument appear.

A final difference between legal argument and that of a more general character, which has already been suggested by the mention of questions of *policy*, is that the public debater discusses questions which appeal to the *will*. A judge or jury has only to decide the abstract merits of the case presented, and to record the decision; no further action is expected on the part of either, and the rendering of the decision does not usually affect the interests of either. But when one seeks to move his hearers to vote for a pending bill or resolution, to support a certain candidate, to pursue a particular line of conduct in business, or to give money to a favorite cause, his arguments must strike at deeper springs than those of pure reason. Such questions demand the best powers of the orator,—powers which may be

Debate looking toward Action.

almost out of place in a court-room, but which will shake the will of the crowd.

It has been impossible to classify debatable questions in any thoroughly systematic way. Whatever classification one chooses, one group will indeterminately melt into another. But it is hoped that this examination of some of the elements of legal as contrasted with general argument, may serve to make clear the points of likeness and of difference in all forms of debate. It may have shown why one must adapt himself to the particular question under discussion, as well as to the particular audience addressed, and why some debaters will always be at their best on certain topics, and others successful along different lines. The problem, however, is always the same at bottom: given a real difference of opinion, caused either by different beliefs as to the facts, or by different inferences from the facts, to produce agreement of opinion by making your hearer believe the facts that you believe, and draw the same inferences from them.



### III.

#### PRELIMINARY WORK.

THUS far we have reached the point where the subject for debate has been stated as accurately as possible. We turn now to look at it from the opposite direction, and ask such questions as: Just what does the proposition maintain? and Just what lines of proof are necessary to its demonstration?

The importance of this preliminary analysis of the question cannot be emphasized too strongly. It would not be too much to say that if one has but an hour to spend in preparation <sup>Importance of Analysis.</sup> for debate, half of it should be spent in

considering just what the question means and what are the essential points to be proved. Much of the difference between poor debaters and those who are successful is found just here. Too often one can see that a speaker has seized thoughtlessly upon one or two points connected with the question, either because he has been most familiar with them or because they afford best opportunity for eloquence; while his opponent may be able to show that, however true all that the first speaker has said, it is not of first-rate importance for the purpose in

hand. No hearer will listen with patience when it appears that the speaker has not grasped the essentials of his question. And it is not uncommon, when the facts in the case are undisputed, to find a debate resting largely upon the ability of one side or the other to analyze it keenly.

The first element, then, is to make clear the precise meaning of the question. This, as was suggested in the preceding chapter, may go  
**Defining the Question.** very far toward clearing up the argument. It was there said that no subject should be debated, when it can well be avoided, whose significance depends largely upon the meaning of certain ambiguous words. It may happen, however, that one side will find it necessary to show at some length that the fallacy of the opposition rests on some false definition. This might be the case, for example, where such phrases as "republican form of government," "Monroe Doctrine," "personal liberty," and the like, were involved. One would then have to turn his introductory line of argument into an exposition of the doubtful phrase.

With reference to debates where particular words or phrases play an important part in the statement of the question, a word of caution must be spoken as to the use of dictionary definitions. Without disrespect to dictionaries, it may be said that they seldom furnish definitions likely to be serviceable for argumentative purposes. Dictionaries admit

all meanings of words which are sanctioned by any reputable usage,—many of them quite divergent in character. In other words, the dictionary cannot answer what is usually the important question: Which, of two or more possible meanings, is the reasonable one for present purposes? It is of no use, then, for a speaker to flourish a dictionary, exulting because it gives the definition he desires to use; his opponent can doubtless do the same.

If, then, we are not to seek definite authority for our interpretation of the question, how shall it be determined? Generally in the sources, <sup>Conditions of</sup> surroundings, and present conditions of <sup>the Question,</sup> the subject discussed. The interpretation must above all be reasonable if it is to be a basis of argument. It must seem to the persons addressed to be a fair statement of what the question means to them. It must exhibit no appearance of having been laboriously searched for in order to conform to the point that the speaker wishes to prove. The etymology or history of any word involved in the question is a minor matter; the present meaning of the word is the important thing. All really debatable questions arise, as has been said, from real differences of opinion. It is these real differences, and not questions of phrasing, which should be discussed. A recent inter-collegiate debate was lost because the side defeated declined to accept the meaning of the question as

interpreted by their opponents, and spent practically their whole time in defending a different one. Similarly, when the question of an arbitration treaty between the United States and Great Britain was being discussed, much time was consumed in theoretical interpretations of the words "permanent court of arbitration," although it was one particular plan that was before the people of the country for consideration. All this does not ignore the fact that in discussions where particular forms of words are involved, as in set debates and in legal controversies dependent on the interpretation of certain documents, it is an essential duty of the debater to interpret the form of words and be ready to defend his interpretation if it be questioned. The point is simply that a form of words should never be allowed to obscure the real question, and that definitions should have reference not to theoretical meanings, but to the meaning of the words *under the circumstances*. Words are to be the servants of the debate, not the debate a slave to words.

When the meaning of the question has been determined, the next step is to inquire what is the essential thing to be proved. Very few propositions are so simple that they can be proved by applying the evidence directly to the whole question, without the use of intermediate steps; and very few are so clearly understood that

**Narrowing  
the Question.**

popular talk about them does not include numberless matters not essential to their proof. There will usually be one point, or at most two or three, which analysis will show to be of supreme importance. Such a point may be called the main issue. The main issue is that which it is chiefly necessary to prove, in order to prove the whole proposition. It is found by discarding all minor matters connected with the question, and fixing the attention upon that which properly forms the central portion of the argument.

Some examples will make this more clear. Take the question: "*Resolved*, That three-fourths of a jury should be competent to render a verdict in all criminal cases." It will appear on analysis that both sides admit that absolute justice cannot be expected in jury trials; the aim, therefore, is to secure the most perfect justice consistent with a uniform system. There are two sorts of interests involved: the interest of every accused person, that he shall suffer the least possible chance of conviction if innocent, and the interest of the people as a whole, that accused persons shall have the least chance of escape when guilty. The existing law seems to express largely the first sort of interest, which has always received great stress among Anglo-Saxon races. The main issue may then be said to be: Will the proposed change increase the chances that public justice will

Analysis of  
Jury Question.

be done, without disproportionately lessening the chances that innocent individuals will escape unjust conviction?

A similar sort of analysis, in a different kind of question, occurs in Macaulay's speech on the proposed Copyright law of 1841. Macaulay showed that a copyright law of any kind is a tax on the public in the interest of authors. Since, however, the interests of authors are those of literature, the public should be willing to pay the tax. The main issue, then, in the pending discussion was this: Would the proposed extension of the copyright period result in advantages to authors sufficiently great to compensate for the disadvantages to readers? Macaulay showed that the disadvantages to readers would be greatly increased, while the advantages to authors would be but little greater than under the existing law.

Many questions depend for their analysis upon proposed remedies for admitted evils. Thus the proposition to establish the free coinage of silver in the United States is largely based on certain inconveniences which certain portions of the people are said to feel as grievances. There is a sense in which these inconveniences are admitted on all sides. While the question could be analyzed from a number of different points of view, perhaps the main issue might best be stated as a double one, after this fashion:

**Analysis of  
Copyright  
Question.**

**Analysis of  
Silver Question.**

Would the free coinage of silver relieve (1) the government of the United States, and (2) the people at large, from present financial inconveniences? Another method of analysis might be drawn from the position of those opposing the proposition. It is claimed that the proposed policy would result in disaster to the business interests of the country, because gold would be driven out to such an extent as to interfere with its use in international exchange, while the monetary value of silver would tend to fall to its commercial ratio of something like 32 to 1. The main issue, then, might again be stated as a double one: Would the establishment of free coinage result in (1) the exportation of gold to a degree that would interfere with its use in international trade, and (2) in the fall of the exchange value of coined silver to a ratio of 32 to 1? This is a subject whose complications make it peculiarly difficult to analyze satisfactorily. One may hear a dozen speeches devoted to it, in political campaigns, and be unable to reduce the various arguments to any clear system. It is safe to say that most of the debates on the silver question would be more satisfactory if the participants held themselves rigidly to some such method of analysis as has just been suggested.

Let us now take an example from the analysis of a legal question. In cases depending upon questions of *fact* the process of analysis is comparatively

simple. Thus in a criminal case the main issue may be simply the question of the credibility of one of the witnesses, upon whose testimony the prosecution chiefly relies. Or the main issue may be a matter of *inference* from testimony;—such a question, for example, as whether the presence of the accused person at the time and place where the crime was committed warrants the belief that he was concerned in the committing of it. In all such cases, then, as in general debate, there is usually one main issue upon which the decision must chiefly rest. But it is in more complicated matters than questions of fact that such analysis is most necessary. Of these the celebrated Income Tax cases of 1894–95 form a good example. Congress passed a law levying a tax of two per cent. upon all incomes of citizens or residents of the United States exceeding \$4000. The question arose whether this law was constitutional. The process of analysis was briefly as follows. The Constitution requires that direct taxes be apportioned among the States according to population, whereas duties, imposts, and excises must be uniform throughout the United States. Taxes on land have always been understood to be direct taxes, but there has never been an adequate decision as to just what other taxes might also be regarded as direct. Economists usually regard any tax as direct which is collected from the very per-

Analysis of  
Legal Questions.



sons who are expected to bear the burden of it,—as distinguished, for example, from duties on imported goods, which are intended to fall not upon the importers but upon buyers. The courts, on the other hand, have shown a disposition to limit the term “direct tax” to capitation taxes and (as has been said) taxes on land. The questions in dispute, therefore, were chiefly these: First, is a tax on the income of personal property direct, and so required to be apportioned among the States? If so, the tax of 1894 is unconstitutional. Second, since it is admitted that a tax on real estate is direct, is a tax on the income *derived* from real estate, by rents or otherwise, also direct, and so required to be apportioned among the States? If so, again, the tax of 1894 is unconstitutional. Third, if any part of the tax is held not to be direct, but of the nature of an impost, is the exemption of incomes under \$4000, and of certain specified kinds of business, in violation of the requirement that duties, imposts, and excises shall be *uniform* throughout the United States? In this case also the tax of 1894 is unconstitutional. On these three questions the complicated Income Tax cases largely rested.\*

\* It was that part of the tax covered by the second of the three questions which was declared void by the Supreme Court (in the case of *Pollock v. Farmers' Loan & Trust Co.*, 157 U. S., p. 429), the Justices who heard argument in the case being equally divided on the other two. For the sake of simplifying the analysis I have omitted mention of that

One more illustration. In the winter of 1895-6 many debates were held on the question: "*Resolved,*  
*Analysis of* That President Cleveland's Venezuelan  
*Venezuelan* message should receive the support of the  
*Question.* people." The circumstances will be easily recalled. A long-standing dispute between Venezuela and Great Britain had reached a critical point, at which arbitration was desired by Venezuela but declined by England. President Cleveland addressed a message to Congress, expressing fear lest Venezuela was being unjustly pressed into submission, and arguing that it was the duty of the United States to investigate the matter, and to insist on justice being done. The message aroused vigorous and protracted debate. Historians and geographers took up the matter of the boundary-line, and discussed its proper survey. Certain portions of the President's message were based on arguments drawn from the historic "Monroe Doctrine," and there was much discussion as to whether that Doctrine had any proper bearing on the Venezuelan controversy. Above all, certain expressions in the message had suggested the possibility of serious differences between the United States and Great Britain, and those who looked upon a war with England either with complacency or with horror entered into clamorous debate over the  
  
part of the tax levied on incomes derived from municipal bonds, which was also declared void.

prospect. Yet for the purposes of definite argument all these matters were of minor importance, and had even to be set aside as tending to obscure the main issue. Mr. Cleveland had not attempted to decide the merits of the boundary dispute, but only to ask for a commission which might do so. He had not based his entire message upon the Monroe Doctrine, but had used it as an auxiliary argument. And clearly the matter of a war with England was not the main issue, for if the position of the administration was right, every one would agree to support it whatever might happen, whereas if it was wrong it should be condemned even if there were no danger of war. This was the line of analysis by which minor matters might be set aside. The main issue would seem to have been: Is the Venezuelan controversy sufficiently connected with (1) the interests or (2) the duty of the United States to warrant our government in intervening?

These illustrations have been given in such number and detail, because of the great importance of indicating what is meant by analysis, and of showing how questions of various sorts can be reduced to one or two issues upon which their settlement largely depends. This preliminary analysis ought, of course, as far as possible, to be acceptable to debaters on both sides. If both sides are agreed as to what constitutes the main issue, the debate will already have made substantial prog-

ress. It is, however, impossible to expect the disputants always to agree thus far. In such cases the one who speaks first should present an analysis which will appear just and impartial even to those of the audience who are disposed to favor the opposite side; and the opponent speaking next will have to begin by attacking the analysis. It will never be safe to decline altogether to discuss any issue raised by an opponent, as though one were afraid of it; but it will be perfectly reasonable to try to show that it is not an essential issue.

The work of analysis clearly presupposes a full understanding of the question on both sides. The study of one's opponent's case is too often neglected. Its importance cannot be stated too emphatically. It is told of a great lawyer that he remarked: "If I have time to study only one side of a question, I study that of my adversary." He must have had in mind the fact that one does not really understand his own side until he knows what is to be said against it. Some questions cannot even be subjected to preliminary analysis until this has been accomplished. Take for example this proposition: The surplus silver bullion in the United States Treasury should be coined and used to defray the current expenses of the government. The outline of obvious direct proof is simple enough: the bullion is lying idle, the receipts of the government are falling behind

Study of  
Both Sides.

the expenditures; why not apply the supply to the need? The trouble is that any one listening to such a line of argument says instantly to himself: "If this bullion is not being coined in the manner proposed, there must be some reason in the minds of the authorities why it is better as it is; I can therefore form no opinion on the question until I know what that reason is, and what is alleged in its favor. If the advocate of the change does not know why it is opposed, he knows very little about his subject; if he knows, and yet keeps still about it, he is not honest." So a question may be dangerous from the very fact of appearing to be all on one's own side; and even the opening speaker in a debate cannot afford to be ignorant, or to seem to be ignorant, of the attitude of his opponent.

Analysis, then, may be said more broadly to include not only the questions, Just what does the proposition maintain? and, What must chiefly be shown in order to prove the truth of it? but also, What objections are made to it? and, How far are the objections significant? One can then determine what objections can easily be thrown aside and shown to be of small importance, and which ones must be set up to be disproved as thoroughly as one's positive position is to be proved. If there are any objections whose relation to the question does not at first seem clear, there should be no rest until that relation has been settled satisfactorily.

If there are any which cannot either be shown to be unimportant or be directly disproved, something is wrong with one's case. To sum up, one never knows what must be proved until he knows what is to be disproved.

The preliminary study of the question will involve, in most cases, a good deal of search for Gathering of  
Material. material; and something is to be said as to the method of such search. The amount of reading necessary will of course depend on the nature of the subject in hand. In any case care should be taken that the reading is not made a substitute for thinking. It is well to make a temporary analysis of the question as it presents itself to one's mind, before looking up any material in books; then, as one reads, the material will arrange itself according to what seemed at first to be the principal heads and sub-heads, at the same time very likely suggesting an improved method of analysis. It is as though one should divide a box into a number of pigeon-holes, with a view to assorting all his papers. As the papers were examined they would fall into one or another of the groups for which places had been prepared, but at the same time they would be likely to suggest that either more or fewer pigeon-holes would give a better classification; so the partitions could be moved about to suit the change. In like manner one's reading on any subject should fit into a pro-

visional scheme of analysis, while the scheme should be allowed to grow and change as new ideas may indicate.

In reading that is intended as a preparation for debate, three classes of material will ordinarily be found. The first is that of simple facts. Here are included such matters as undisputed statistics, historical statements, and scientific truths, which are of such indubitable validity that no special authority need be cited in support of them. The second class includes facts not to be accepted on their face, but depending for their value upon their source;—such as the testimony of a traveler as to things seen in a foreign land, or the decision of a judge on a doubtful point of law. Here the *source* of the fact constitutes a part of the argument itself. The third class of material includes the arguments of others, the worth of which has nothing to do with their source. If the source of material is named in this case, it will be as a matter of courtesy or simple honesty, not as an element in the proof.

The distinction between these classes of material is not an artificial one, but has practical bearings. The three sorts of material should be very differently used. The class of undisputed Facts and Opinions. facts is the most simple; to discover them is the first object of the preliminary reading, and to set them forth distinctly will be the first duty of the debater. They are introductory to the arguments

based upon them. The material of the second class we shall have to consider later under the head of Testimony and the argument from Authority. It may be said here, however, that material of this class should be selected with great care. Since its value depends wholly upon its source, the value of the source will determine its use. Debaters sometimes exhibit a ludicrous lack of appreciation of the relative value of sources. If they have lighted upon any quotation favoring their side of the case, they will bring it with them into the debate, wave it triumphantly in the face of their opponents, and exclaim: "Does not the morning paper make the following statement?" or, "I came across this paragraph to-day, in some magazine whose name I have forgotten, which is in itself a sufficient refutation of the position of my opponents." One cannot too carefully remember that no hearer is bound to accept a quoted statement as of any more value than his own opinion, unless the high character of the source be distinctly shown. More than this, even if the character of the source be very high, it is of small value in a case of mere opinion on a disputed matter. If the question is really debatable it is to be presumed that wise men will be found on each side; so that to quote even the President or the Chief Justice in such a case will show that there is something on one's side worth con-



sidering, but nothing more. Quotation-marks are no sign of plenary inspiration.

The material of the third class includes actual arguments on both sides of the question. Briefly stated, the proper use of this material is to <sup>Arguments</sup> enable the reader to set in order all the <sup>of Others.</sup> opposing arguments as matter to be refuted, and to make the favorable arguments *his own*. What is it to make the argument of another one's own? It is so to appreciate its value that it will take its place in one's mind as a part of one's own view of truth, apart from everything peculiar in the way it was first expressed. It can then be re-expressed in one's own fashion. There is no copyright on a process of reasoning. It is only the method of expression that can be said to be borrowed or stolen; and cases will be very rare in which it will not be more effective to use an original method of expression, than to quote the words of another. Every one who reads knows how the ideas discovered are assimilated in his own mind, so that he forgets the source while keeping the substance. In this way the *Congressional Record* and the *North American Review* may reappear in debate under a new form, just as last week's meat and vegetables reappear this week in bone and blood and muscle. This is the fruitful method of reading for all purposes, and particularly for debate.

Some system will be found necessary for the

orderly tabulation of the material found in preliminary reading and study. If the question is one of ordinary interest, the investigator will at first be appalled by the amount of material which will come to hand. The daily press, Poole's *Index*, and the *Congressional Record* will frighten him by the abundance of their stores. In all this matter there will be some more authoritative and more concisely stated than the rest, and this should be selected as soon as possible. This being done, it will very soon appear that the contents of other articles will group themselves easily under heads already set down, and the great body of useful material will soon have been gathered in. But how shall the heads be tabulated and grouped? Most of us have found that it is never prudent to do serious reading without a pencil at hand. The best sort of note-book for such purposes as we are considering is simply an abundant collection of cards or slips of paper, on which separate points may be jotted down as they present themselves. These can then be easily assorted and reduced to a small number of groups. Repetition will in this way be readily discovered; the main headings of the argument will loom up after a little; and by judicious shuffling one may be sure that he has included everything he has gathered together, and has got it into intelligible shape. I have seen a friend who is a zealous and successful debater literally sur-

rounded by piles of these little slips or cards, embracing all the facts of the case to be debated, the main lines of proof, and the possible points of the opposition. It was little wonder, after this had been done, that in his finished argument every separate bit of material fell into its place as neatly as though he had been able to think out everything in the first place in its logical order.

A plan practically identical with what has just been suggested is described by Professor Wendell, in his "English Composition," \* as a means for securing the best order in any composition.

"On separate bits of paper" (he says) "I write down the separate headings that occur to me, in what seems to me the natural order. Then, when my little pack of cards is complete,—in other words, when I have a card for every heading I think of,—I study them and sort them almost as deliberately as I should sort a hand at whist; and it has very rarely been my experience to find that a shift of arrangement will not decidedly improve the original order. Ideas that really stand in the relation of proof to proposition, frequently present themselves as co-ordinate. The same idea will sometimes phrase itself in two or three distinct ways, whose superficial differences for the moment conceal their identity; and more, frequently still, the comparative strength and importance, and the mutual relations, of really distinct ideas will in the first act of composition curiously conceal themselves from the writer.

\* Page 165.

A few minutes' shuffling of these little cards has often revealed to me more than I should have learned by hours of unaided pondering."

Obviously all that is here said of the suggested method, with general composition in view, is doubly applicable to preparation for debate.

The analysis of the subject and the tabulation of material ought to combine to produce an *outline* of the argument which is to be made.

**The Outline  
or Brief.** Such an outline really completes the constructive work of debate, up to the point where such matters as illustration, persuasion, and rhetorical form come in; and it is the almost indispensable prerequisite to orderly debate. There are at least three reasons why a careful outline is so important. In the first place, no ordinary person can carry in his mind a complete view of the material for an argument, if he has it only in the large form in which it has come to him and in which he wishes to present it to others. The ground covered must be viewed, as it were, in miniature, in order to be understood in its structure and relations, just as a thousand miles of territory cannot be understood as a whole, even by one who has traveled over them, without the aid of a small map which will show the shape of the country at a glance. The reason why so many speakers seem to go a great distance without coming to any destination, is because they start out seeing the road only from one hill to another,

and have obtained no map for the entire trip. An outline for a speech, then, may be said to be a map, on a large scale, of the country to be covered.

Again, such an outline is important because when the time comes for putting the argument into its final form, whether it is to be first written or spoken directly from the outline, the author should have all his faculties free for the perfecting of phraseology,—the attainment of perfect clearness, elegance, and force. The work of construction should have been completed in advance. Any one accustomed to public speaking can rise and speak extemporaneously, if he has had sufficient time to determine the outline of what he wishes to say; the fluency and force gained by experience will do the rest. But without a plan in mind he will be likely to say very little, though he may be a good while in doing it.

Finally, an outline is necessary in order that the structure of the argument may be made clear to the audience. The speaker's mind may be so soundly logical that one point will develop from another in the best order, without preliminary care being taken to secure this end; but it is not likely that many minds in the audience will be as able. They must be helped by being let into the secret of the structure,—by an occasional "first," "secondly," and "thirdly," as the circumstances may require, or by less formal hints; and the speaker cannot

give this help if he has not prepared an outline for himself.

The outline, then, will put into visible form the results of analysis. Analysis will have determined the one or two principal points to be proved; these points will form the main headings of the outline. The material gathered will have grouped itself under a number of different methods of proof; these groups will be put under the appropriate headings. Certain matter will have been found to be not so much actual proof as matter for introductory or concluding comment; it will be given its place before or after the body of the argument. The outline, moreover, should make clear not only the order of the parts, but their relation one to another. Every statement should be so set down that it will be evident whether it is a main heading,—that is, something which goes to prove the proposition directly,—or a subordinate heading, removed by one or more steps from the main question. To put the matter in a slightly different way: any two parts of an outline for argument are either co-ordinate,—that is, intended to perform precisely similar functions,—or of different orders,—that is, intended for different purposes. The problem is to show at a glance which are co-ordinate, main headings, proving the proposition directly, and which are subordinate, leading to the proposition indirectly. The

simplest solution is merely to have all co-ordinate parts of the outline occupy the same position on the page. The main headings may begin at the extreme left of the paper; headings of the next order a half inch to the right of the main headings; and so on, as far as may be necessary. Such an arrangement presents to the eye, at a glance, the relations of the different parts of the argument. It is of course merely an extension of the paragraph idea, upon which we depend in all reading to indicate the places where the structure of the composition changes. In an extended composition it would be confusing to have paragraph indentations of different degrees, because the eye could not follow them at a glance; but in a miniature outline it is quite practicable to use a separate degree of indentation for every sort of subdivision of the thought.

Let us take an example illustrating the growth and arrangement of an outline for debate. Suppose that a speaker is to argue in favor of woman's suffrage in the United States. After doing some reading and thinking on the subject, and jotting down the points discovered in the order in which they have occurred to him, his notes run somewhat as follows:

Outline on  
Woman's  
Suffrage.

1. Importance of the question.
2. Idea of woman's suffrage has made rapid progress.

3. Suffrage is a natural right.
4. Americans believe that taxation implies representation.
5. Woman is more moral than man.
6. The only other disfranchised classes are idiots, criminals and children.
7. Women would produce a good effect on politics.
8. Objection: Women cannot do military service.
9. Women interested in education of children.
10. Objection: Home interests would be injured.
11. Disfranchisement of woman a mere tradition.
12. In America practically all citizens vote.
13. Objection: Women are represented by men.
14. Experience in Colorado, Wyoming, etc.
15. Very many women now in business.
16. Women much interested in reforms.
17. The present a favorable time for trying the experiment.
18. Laws still exist unfavorable to the interests of women.
19. Unmarried women have not even partial representation.
20. Women need the ballot to protect their real interests.
21. According to the Declaration of Independence, all persons are born free and equal.

Here, clearly, is a good deal of useful material, but in a quite unserviceable form. The different statements bear very different relations to one another. Numbers 1, 2, 11, and 17 are of slight value



as proof, but are interesting for preliminary consideration or concluding appeal. Numbers 4, 6, and 12 seem to belong together, under some heading having to do with the theory of the franchise in the United States. In the same way 3, 9, 15, 18, and 20 have to do with the question of the interests of women; while 5, 7, and 16 have to do with the interests of the country at large. Aside from the matter of arrangement, the headings are seen not to be co-ordinate in their functions as proof. Thus 5 and 16 are proofs of 7, if they have any value, and should evidently come together under 7. 21 seems to be an attempt at proof of 3. Numbers 9, 15, and 18 are proofs of 20; under this head, also, belongs the objection stated in 13, to which 19 is a partial answer. In the same way 14 may well be used as an answer to the objection stated in 10; while 6 is really a form of answer to an objection not stated, coming under the idea expressed in 12.

Arranging the headings according to this analysis, and filling in certain gaps in order to indicate the full connection of the various ideas, we have an outline something like this:

*Women should have the right of suffrage in the United States.*

*Introductory.*

The problem of suffrage of grave importance in America.

Originally the right to take part in government was based on physical force.

In the United States, however, it is supposed to be based on principle, not tradition.

I. To deny women this right is unreasonable according to the principles of government in America.

Here suffrage is called "universal."

(It is no objection to say that suffrage is denied to certain classes by law, for

This denial is largely based on assumed incapacity, as in the case of idiots, criminals, and minors.)

(Neither is it sufficient to say that women are excepted because of incapacity for military service, for

Men are not disfranchised when incapacitated by age or infirmity.)

Here the principle is accepted that taxation implies representation; and women are taxed.

II. To deny it is unjust.

Suffrage is a natural right of citizens, for

It is the means by which they are to protect and exercise the freedom and equality guaranteed them by the Declaration of Independence.

Women need the suffrage to protect their interests.

Many of them have business interests.

Many are interested in the education of children.

Many still suffer from laws unfavorable to their personal rights (as in the case of holding property, guardianship of children, etc.)

(It cannot be said that they are represented in these matters by men, for

In the nature of the case a man cannot represent the interests of a woman; and

Unmarried women are not even professedly represented.)

III. To deny it is contrary to the interests of the nation.

The influence of women in politics would be beneficial.

Women are, broadly speaking, more moral than men.

Women are more interested in reforms.

(It cannot be urged that the interests of the home would be injured, for

This is contrary to the nature of women; and

Experience in Colorado, Wyoming, and elsewhere, proves the contrary.)

### *Conclusion.*

This movement has grown beyond all expectation, and has been successful in many localities.

The present is an opportune plan for trying it in the United States.

This outline is of course by no means complete; detailed evidence is not indicated, and only a few

of many objections are refuted; but it is at least arranged in an orderly manner, so that the argument based on it should have a structure easily appreciable, and one using it should be able to tell at any particular point just how much had been proved. It will have been noticed how the system of marginal indentation makes clear the relations of the various statements in the outline. Those beginning at the extreme left (numbered I., II., and III.) are the main headings which go directly to prove the proposition. Those beginning an em to the right are proofs of the main headings under which they stand; and those still further indented are proofs one step further removed. Objections are stated and refuted under the headings to which objection is supposed to be made. Thus an outline map is formed for the entire process of argument.\*

It is such an outline as this, adapted to legal argument and developed so as to indicate not only the plan but the substance of proof, that  
**Legal Briefs.** lawyers call a "brief." Legal briefs, then, are much fuller than would be found useful for general debate, since their purpose is not so much

\* This, as was suggested, is the simplest form of outline or brief. Where the outline is to be subjected to criticism or discussion, or where it is to serve any other purpose than that of a preliminary sketch for the use of the individual speaker, it will be found useful to employ a more elaborate system of correlation. The best system of this kind is explained in Baker's "Specimens of Argumentation" (Holt &

to aid the speaker in his argument as to give the court, and the attorney for the other side, the substance of the writer's case. Not infrequently, indeed, cases are submitted to court on the briefs alone, without oral argument. This requires a full written statement of the facts in the case, and a definite record of all the evidence necessary to give ground for a decision. Yet the best legal briefs are as clear in structure as though they were mere skeleton plans. By conciseness of statement, the numbering of the main divisions of the proof, and careful paragraphing, they still serve, in a sense, as maps of the country to be traversed. Those who have had much to do with the briefs of inexperienced lawyers complain that they are often lamentably deficient in clearness and order. The secret of the defect has already been indicated: it lies chiefly in careless analysis of the question and the proof. Too much stress cannot be laid on the fact that, whether in a court of law or in a general assembly, the debater who has constructed a strong plan for his argument has gone a good way toward winning his case.

The preliminary work of the debater may now be assumed to be complete. We have of course passed over, for the time being, the consideration

Co.), and "Principles of Argumentation" (Ginn & Co.); and is illustrated by the brief on the Trust question, in the Appendix.

of the particular kinds of proof which will have been determined and brought together before even the outline of debate was prepared. But we have examined in detail the process of analysis, the problem of preliminary reading and study, and the method of constructing an outline. Another useful preliminary process, it may be observed, is that of conversation. A prospective debater should have no hesitation in becoming a bore to his friends, in order to make sure that no ideas relating to his subject shall escape him. Those friends are most useful who take the opposite side from his own, and who will attack every position he occupies. After some hours' friendly discussion of this sort, it is not likely that either participant will have convinced the other of error, but that will not matter; new light will certainly have been struck out by the clash of opposing minds.

When all this has been done, the debater should go before his audience so full of his subject, so ready for whatever may be said about it, that his only thought—the sole thing about which he will have any doubt or fear—will be to crowd what he has to say into the appointed time, and to drive it home with the utmost possible effectiveness.

## IV.

### BURDEN OF PROOF.

WE now approach the central problem of argumentation, the nature and use of proof. Through all the preliminary work this has been the object in view, and the point has been to ascertain just what sort of proof was needed and where it might be found. In the consideration of the "outline" we assumed for the time being that the proof had already been collected. We now turn to examine its nature more closely.

At the outset of this subject we meet the question of the so-called "Burden of Proof," a topic of great importance for all sorts of debate, yet one concerning which few persons seem to be clearly informed. The principle is in reality a very simple one; the confusion is simply in the use of terms.

The Burden of Proof is defined most simply as "the obligation resting upon one or other of the parties to a controversy to establish by proofs a given proposition, before being entitled to receive an answer from the other side." To put it in another way, the burden of proof is the chief responsibility in the argument; or, in still another way, it rests upon the side which

Burden of  
Proof de-  
fined.

would be assumed to be defeated if no progress at all were made in the consideration of the case.

Let us look first at this matter from the legal point of view. Here are the words of Lord Justice Bowen:

“In every lawsuit somebody must go on with it; the plaintiff is the first to begin, and if he does nothing he fails. If he makes a *prima facie* case, and nothing is done by the other side to answer it, the defendant fails. The test, therefore, as to the burden of proof is simply to consider which party would be successful if no evidence at all was given, or if no more evidence was given than is given at this particular point of the case.” \*

“The plaintiff is the first to begin,” or—in a criminal case—the prosecutor, because it is he that brings the charge or complaint. He creates the case by making a statement, and “he who affirms must prove.” The question then arises: does the burden of proof rest on this same party throughout the argument, or may it be shifted upon his opponent? In one sense, it may certainly be shifted. To continue the quotation from Lord Justice Bowen:

“It is not a burden which rests forever on the person on whom it is first cast, but as soon as he, in his turn, finds evidence which, *prima facie*, rebuts the evidence against which he is contending, the burden

\* Case of *Abrath v. No.E. Ry. Co.*



shifts until again there is evidence which satisfies the demand. Now, that being so, the question as to onus of proof is only a rule for deciding on whom the obligation rests of going further, if he wishes to win."

To the same effect is the language of Stephen in his work on Evidence:

"The burden of proof in any proceeding lies at first on that party against whom the judgment of the court would be given if no evidence at all were produced on either side. . . . As the proceeding goes on, the burden of proof may be shifted from the party on whom it rested at first by proving facts which raise a presumption in his favor."

We can now see the relation of this term "burden of proof" to the closely related term "presumption." A presumption is "that which may be logically assumed to be true until disproved." So if the burden of proof is on the plaintiff, the presumption favors the defendant; but if the plaintiff makes what the jurists call a "*prima facie* case," he raises a presumption against the defendant. Examples of this are perfectly familiar. Thus every man is presumed to be innocent until he is proved guilty; but if, in a trial for murder, the accused person were shown to have been alone with the murdered man at the time when the crime was known to have been committed, the prosecution would have

Burden of  
Proof and  
Presumption.

made a *prima facie* case, and the burden would be upon the accused to overthrow the presumptive evidence against him. Or, in a civil case, a man is presumed to have a right to occupy the house he lives in; but if his landlord attempts to evict him, and shows a document purporting to give him the right to do so, signed by the tenant, then the burden shifts upon the defendant, and he must either show that the signature to the document is not his, or that the document is invalid for some other reason.

“The rules on the doctrine of legal presumptions . . . may, in many cases, be referred to the four following maxims: 1st. That no one shall, in the first instance, be called on to prove a negative, or be put on his defence, without sufficient evidence against him having been offered, which, if not contradicted or explained, would be conclusive. 2d. That the affirmative of the issue must be proved; otherwise men might be called upon by a stranger to prove the title to their property, which they might often be unable to do, though the title was in fact good. 3d. That possession is *prima facie* evidence of property. . . . 4th. Whatever any thing or person appears or professes to be, is considered to be the fact, until the contrary is proved.” (From an article on “Presumptions of Law” in the Law Magazine, reprinted in Prof. Thayer’s “Preliminary Treatise on Evidence.”)

From one point of view, then, the burden of

proof may be shifted from one side to the other by the *raising of presumptions*. But from another point of view it always rests on the side whose duty it is to prove the main proposition. Thus Chief Justice Church said, in deciding the case of *Caldwell vs. N. J. Co.*: “The burden of maintaining the affirmative of the issue, and, properly speaking, the burden of proof, remained upon the plaintiff throughout the trial.” And, broadly speaking, in a trial for murder the duty is upon the prosecution, from the beginning of the trial to the end, to prove its whole case; or, in a case dealing with the seizure of property, the party laying claim against the apparent owner cannot get rid of the responsibility of proving the claim laid down at the outset. From this point of view “the burden of proof” really means something different from what it meant in the cases previously cited. Professor Thayer states the distinction clearly:

“In legal discussion, this phrase, ‘the burden of proof,’ is used in several ways. It marks (1) The peculiar duty of him who has the risk of any given proposition on which parties are at issue,—who will lose the case if he does not make that proposition out, when all has been said and done. . . . (2) It stands for the duty . . . of going forward in argument or in producing evidence; whether at the beginning of a case or at any later moment throughout the trial or the

Term used  
in Two  
Senses.

discussion. (3) There is an indiscriminated use of the phrase, perhaps more common than either of the other two, in which it may mean either or both of the others." \*

It would not have been reasonable to spend so much time in the exposition of these legal questions, if they were technical matters peculiar to the practice of courts. As a matter of fact, the principles just considered are perfectly applicable, from beginning to end, to the question of the "burden of proof" in the debate of ordinary life; and if they were understood with precision many absurd arguments, or interruptions of arguments, would be avoided. In ordinary debate, then, a proposition is laid down, and the disputant having the duty of proving it is said to *bear the burden of proof*. One may, of course, lay down a statement of such a character that reason requires us to believe it until someone else has taken the responsibility of proving it untrue; but such a statement is hardly suitable for debate. We have seen that in formal debates it is always unfortunate to have the question so worded that the first speaker must spend his time in supporting a proposition presumptively true. The first speaker, like the attorney for plaintiff or for prosecution in court, should have the presumption against him: he should oppose existing conditions, propose some new or untried policy, or at least lay down a state-

\* *Law of Evidence*, p. 355.

ment which a portion of his audience is not prepared to accept. He will have to make definite progress in his proof; he will be under the obligation, from the beginning to the end of the debate, of making good his proposition; and it will be enough for his opponent, who has the negative, *merely to prevent* him from doing so successfully. If he makes no positive case, or if the negative does nothing more than destroy what he builds up, he must be judged to have lost the debate. If he proves any single point which establishes his case, and the negative cannot overthrow it, he must be judged to have won.

Thus, in one sense of the term, the disputant on whom rests the burden of proof must cheerfully accept it, and never forget or attempt to evade the responsibility. On the other hand, as in law, there is a sense in which the burden of proof may shift back and forth. The first speaker may show in his first speech that, although he has the burden of opposing existing conditions, yet the real presumption is against existing conditions. If he has to defend a new and untried measure, he may yet show that experience so leads up to this measure as to shift the presumption in its favor. At the close of his argument, then, a *prima facie* case will have been made for his side, and the burden will be upon the negative to show why his claim cannot be maintained. If they do not attack his argument directly, but set

How the  
Burden  
may Shift,

up a counter-case of their own, the burden is still on them to establish that counter-case and to show that it evades the points made by the affirmative. If they do so successfully, the presumption is again in their favor, and the affirmative must go on to further proof or meet defeat.

Thus far we have looked at this matter from a somewhat rigidly technical point of view,—the point of view of the judge, whether in a court or in a matched debate. The same principle, as has been said, applies to argument in general, but it must be applied in a broader way. It is not enough, when addressing a general audience, to try to win one's case on technicalities. A debater who does so always runs the risk of finding his victory a sort of defeat in disguise. A lawyer may save his client from punishment by discovering a flaw in the indictment, or by merely throwing such doubt over the evidence that the jury feels the guilt has not been proved "beyond a reasonable doubt." But if the accused is to free himself from suspicion in the eyes of the community, much more than this must be done. He must show that the ground of accusation was absolutely mistaken; he must, if he can, not only prove himself *not bad*, but prove himself good. This is the sort of proof that is demanded for general debate. One may be defending some President, or Senator, or Mayor; one may be seek-

Burden of  
Proof in  
General  
Debate.

ing support for some law, or taking the part of some society or party against which wrong motives have been charged. In all such cases there will be a technical presumption of innocence, but this will count for comparatively little in the public mind. It is not a question of whether the Senator has done anything which might send him to prison, but whether he is a good Senator. It is not a question of whether the proposed law can be shown to meet the particular points where its opponents attack it, but whether on the whole it will be a good law. So the general debater must win his case in a broader fashion than would be required of him in a court of law. And the burden of proof which he will try to shift will not be the technical burden of proof, but the real burden of doubt upon the minds of his hearers. He will not strive after ingenuity in juggling with presumptions that depend upon forms of words, but after success in dealing with the question: Where, according to the feeling of my hearers, does the true presumption lie at this point in the argument?

In a sense, of course, any proof offered by the affirmative at the opening of debate, is a means of shifting the burden of proof; but very commonly the most convenient method of doing so is to establish a presumption in favor of the proposition by showing that it is more reasonable, on the face of it, than its oppo-

*Methods of  
Shifting  
the Burden.*

nents have supposed. Some illustrations may make this clear. In a criminal trial the attempt of the prosecution to show the general bad character of the accused, in order to establish the antecedent reasonableness of his guilt, is a case in point. Some time ago a debating society discussed the question: "*Resolved*, That in the United States the strength of the Federal government should be gradually increased, as compared with that of the separate States." The first speaker on the affirmative spent most of his time in showing that the resolution favored just such a process as had in fact been going on from the adoption of the Constitution up to the present time. Having done this, he explained his object somewhat as follows:

"Why have we taken so much time in a mere review of a past tendency, when we are to consider the present and future? In order to show that it is really our opponents, and not we, who have the heaviest responsibility of proof, since it is their business to argue against an established course of events, and ours to defend it. A second reason for doing so is because we have thus answered in advance the chief possible objections to this tendency. They cannot tell us that it threatens individual liberty; for we all know that freedom is now more fully developed than when Washington laid the corner-stone of the Capitol. They cannot urge that such a tendency will tend toward an im-



proper increase in the functions of government, for we know that to-day we let our citizens mind their own business in a way that has scarcely been seen before. They cannot say that such growth is a violation of the contract made at the adoption of the Constitution, unless they would show that we have steadily violated that contract for more than one hundred years, and have never discovered it. They must not complain of the possible destruction of the individual State, or the loss of its local authority, for in the face of all this history there is no single State to-day that fears for one moment its dissolution or absorption. In short, the nation has not by this tendency moved away from any of the great ideas of the Constitution, but has by means of it crowded through all difficulties, and breathes very freely to-day."

A similar example is to be found in the case of debates on "expansion," or various proposed annexations of territory. In these cases the affirmative has borne a heavy burden of proof, and the negative has made the most of the fact by emphasizing the novelty of such propositions, the extent to which they form departures from the usual policy of the country, and the new dangers likely to be involved. The affirmative has met this by the claim that the proposed expansion of interests is in line with certain natural developments, that it has been anticipated and ex-

Presumption  
in Expansion  
Question.

pected by many of our public men, and that it would not, therefore, properly interpreted, be a departure from an historic policy. This line of argument was used in connection with the annexation of Hawaii, and again, more recently, in connection with the territories won from Spain. "We have in fact annexed attractive territory," it has been said, "whenever we have had opportunity; and our economic and political development has been such as to lead logically to what is now proposed. Nay, we may even claim that it is for us to demand, when an attractive opportunity for expansion is offered, that those opposing it should show why it is not to be used." In other words, the affirmative has sought to relieve itself of the real burden of proof, and to establish a preliminary presumption in its own favor.

One additional example will suffice. A debater had to argue in behalf of woman's suffrage. He had what might be called a triple burden

**Presumption in Suffrage Question.** resting on him: that belonging naturally to the affirmative, the fact that he favored a change from familiar conditions, and the strong popular opinion against him. He tried to relieve himself of this in an interesting way. He showed how the idea of popular government, as held in America, is that all citizens having an interest in the operations of government, and capable of ex-

pressing an intelligent opinion on its operations, should have the right to do so through the franchise. He pointed out the several reasons why, under this rule, minors, idiots, and criminals are disfranchised. Women, he said, constitute a fourth class, but evidently not from a similar reason. They are excluded, in fact, from causes now obsolete and merely traditional; the custom goes back to the period when physical force was the basis of government, and when woman had no public interests such as have arisen in the evolution of society. Her social, intellectual, and business privileges have changed; her political privileges still lag behind. If an intelligent traveler from another planet could be imagined as coming to visit our country and study its institutions, he would be likely to say: "One thing I do not understand. You have one large class of persons, possessing those qualities which you say are the prerequisites of citizenship, and involved in nearly all the interests which citizenship seems intended to protect; and yet they are excluded from the chief function of citizenship." It is for those who are able to do so (the argument concluded) to show why such an inconsistent condition of things should persist. In other words, the attempt was to throw back the logical burden of proof upon the negative, and establish a presumption for the proposed change.

Opinions will of course differ as to the value of these different lines of argument; but the point of illustration is simply the general method pursued, which was essentially the same in all of them. In the first case the affirmative tried to establish the presumption by showing that its own side was really that of existing conditions. In the second case the attempt was to do the same thing by establishing a line of tendency made up of analogous conditions. In the third case the attempt was to show the intrinsic reasonableness of the proposition. In all the cases the object was to secure a favorable attitude, on the part of those addressed, toward the side which technically had the presumption against it. Such methods are of no little value in the hands of those who find themselves called upon to defend radical or unpopular measures. They should never, however, be used to the exclusion of direct proof, nor be made an excuse for shirking that permanent burden of proof which we have seen always remains on one side of the controversy. When the proposition laid down is a general one, the affirmative must be ready to show particular cases in which it is true, and explain any particular cases cited in opposition. When a plan is proposed in somewhat vague terms, they must accept the responsibility of showing particular ways in which it could be carried out. Thus if the question favor a court

Relation of  
Affirmative  
and Nega-  
tive.

of arbitration, they must describe *at least one sort* of court which they will prove practicable. On the other hand, they have their choice of the particular instance best suited to their purpose,—be it one out of a hundred; and when that instance has been set up, the burden is upon the negative to attack *that*. If we reverse the question, and find the affirmative laying down the proposition that a court of arbitration is inadvisable, then the burden rests upon them to prove this true for all possible courts of arbitration; they are under no obligation to bring instances, but upon the negative rests the responsibility of adducing *at least one instance* which will overthrow the general presumption established by the affirmative. Thus in every case the affirmative has always its original proposition to prove. No jugglery of words, as has already been said, should be allowed to enter into this matter. A good debater will rarely need to use the words “burden of proof” in his argument, or to tell his audience that he has been trying to shift the burden upon his opponent; he will shift not the name but the reality, by making his case so clear and strong that the audience will be carried with him. Then his opponent will see for himself that he is under the obligation to recapture his ground.

Briefly to recapitulate: The burden of proof is, in the first place, the obligation resting upon the affirmative to prove the proposition it lays down at

the outset,—an obligation which it never escapes; and, in the second place, the obligation of either disputant to produce proof at any moment when, in the absence of such proof, the other side would be judged to be in the right. In a word, it is simply the demand of the audience: *Show your proof, if we are to believe!*

## V.

### METHODS OF PROOF.

THE attempt to classify processes of proof has always been the bugbear of students of argumentation. A dozen different systems of classification have been thought out by those who have analyzed the operations of the reasoning faculties from different points of view. Too often the matter has been approached merely from the standpoint of theory, or of the principles of logic, rather than from that of the practical debater.

It is natural for one with an orderly mind to seek to analyze and classify all the processes that he makes use of, and to be disturbed if he cannot make this analysis consistent and inclusive. As soon, however, as one makes the attempt with methods of proof, and begins to apply his system to the various examples that occur to him, a hundred difficulties arise. One sort of proof seems to run into another; a piece of reasoning seems to be inductive from one point of view, and deductive from another; and the use of the simplest sort of evidence appears, when one considers it closely, to involve processes of reasoning which are commonly thought of as belonging to complicated arguments.

All Proof  
Inference  
from Expe-  
rience.

The difficulty is a real one. The various names and systems which have been invented for these things are in fact only superficial, and often obscure the inner likeness of all methods of proof. Reduced to its lowest terms, all our processes of reasoning, great and small, are simply *inferences based on experience*. Sometimes the inferences are so rapid that we do not realize that the process has taken place, as when we hear a voice and infer that a man speaking is the cause of the sound; whereas sometimes they are labored and prolonged. Sometimes, again, the experience on which the inference is based is limited, and the inference therefore uncertain, as when we infer that a man will tell a lie because we knew him to tell one before; while at other times the experience is broad and prolonged, as when we infer from innumerable instances that all men are mortal. All testimony, when used as proof, is based on the inference, from experience of greater or less value, that the witness is able and willing to tell the truth; all argument from authority is based on inference of a similar kind; while of course such argument as is called "proof by Example" or "by Analogy" is inference from experience of past instances similar to the one in question. Even the distinction between inductive and deductive reasoning, which forms a basis for the study of logic, is only a matter of the point of view taken, and cannot be applied thor-



oughly in comparing various practical processes of proof. In making inductions we are constantly using deductions, and in making deductions are using inductions. Indeed the great fallacy of inductive argument (mistaking an *accompanying* or *preceding* fact for a cause) is a form of the so-called fallacy of "*post hoc ergo propter hoc*," which is treated in deductive logic as closely connected with the fallacy of "Begging the Question." \*

Let us, then, put aside for our present purpose any attempt to arrange our methods of proof according to a perfectly consistent system, by which they may be pigeon-holed in mutually exclusive groups. On the other hand, we will examine all these methods from the standpoint of their use in practical debate.

We have already seen something of the classes into which various arguments naturally fall, in the discussion of debatable subjects in courts Establishing of Facts. of law as compared with general debate (see Chapter II). The first of the classes was that of the simple establishing of *facts*. This is what the lawyer does at the opening of his case, and he does it largely by the calling of witnesses. So the handling of testimony is in a sense the first problem of all debate where the facts are disputed, or where they need to be clearly brought out as a basis for

\* For a clear discussion of this whole question, see the admirable little book by Sidgwick, "The Process of Argument."

argument. The witnesses in general debate may be called from all quarters of the globe, and may be private citizens, public men, newspapers, or merely common rumor. They may, of course, differ very greatly in the degree to which their testimony can be relied upon, and the great point in the use of their testimony will be to make its credibility clear.

This credibility will depend, first, upon the ability, and secondly, upon the willingness of the witness to give an accurate account of the matter under consideration. It will make no little difference whether the matter is one concerning which any reasonable person could speak with certainty, or whether it is one requiring the skill of a trained observer; whether—to put the same thought in other words—it involves one of those rapid inferences which we are always making in commonplace matters, or one of those more complicated inferences (such as a chemist or a physician makes in analysis or diagnosis) where a mistake is easily possible.

Again, it will make a difference whether the witness has any imaginable interest in the establishment of the fact to which he testifies. Experience shows that the most honest of men are likely to see events through glasses colored by their prejudices and interests, and that one who investigates a matter in the hope of finding certain facts which he wishes to make known, is altogether likely to see

what he went to see. \_So if an admirer of the Cubans goes to Cuba on a trip, and is followed by one who has no liking for the island or its inhabitants, we may expect that on their return they will present quite different reports, even on matters of fact. Even if they have seen just the same things (and it is not probable that they have, not having been looking for them), their inferences have been different. The conflicting reports of the two commissions—the Spanish and the American—that investigated the destruction of the battleship *Maine*, both having the same facts before them, present a striking example of this tendency. So it happens that if a witness is known to be wholly without interest in the matter to which he testifies,—as when a scientist, traveling with his eyes open only to scientific truth, describes what he sees in Cuba or the Philippine Islands,—the testimony has special value. And further, if a witness gives merely incidental testimony, with no thought as to its bearing on any disputed matter, or if he gives merely negative testimony,—not mentioning a matter which he would naturally mention if it were known to him, or if he testifies to a fact which is opposed to his prejudice or his interests, the testimony has double value from such circumstances. The principle is simply that testimony is strengthened by whatever gives us reason to infer that the

fact *as stated* is an accurate representation of the fact *as existent*.

These are some of the rules governing the value of testimony, which are the result simply of our common experience with witnesses of all kinds. In the procedure of courts of law these, and many others, have been reduced to a great system of rules—rules which, like all rules of law, have their basis in common judgment but have been crystallized into an artificial code of practice. In speaking of the use of evidence in general debate, the only point requiring emphasis is that the value of testimony, as determined by means of common judgment, shall be clearly brought out in the course of argument. A lawyer has ample opportunity to do this in connection with the giving of the testimony; by examination and cross-examination he brings out all the points necessary to the establishing of the credibility of his witness. But a debater in general argument has no such opportunity; he cannot summon witnesses in person, but must quote from their published utterances, and he usually has much less time than the attorney in which to present his evidence. He must seek, then, in the very moment of giving his testimony, to show in a dozen words why it is to be believed, to point out the difference between testimony of a flimsy character, based on mere rumor or newspaper gossip, and that derived

Use of  
Testimony  
in Debate.

from witnesses of capable judgment and disinterested state of mind. If the facts of the case are in dispute, or if their presentation is essential to the proving of one's proposition, this clear setting forth of one's testimony may be the critical point in the argument. Some debaters make the grave error of falling back upon general assertions, instead of being prepared to mass their witnesses when a statement is questioned by the other side. But mere assertion will count for very little when a fact is really in dispute.

Expert testimony, so-called, and argument from authority, are clearly distinguished in legal proof; the one dealing with matters concerning which testimony is being taken, the other with matters of legal interpretation which have been judicially decided. In general debate, however, the two are very similar. We have already seen something, in Chapter II., of the nature of the argument from authority. In this case the proof consists in the inference that the authority cited is competent to speak decisively on the point in question. Such authority is, then, a kind of testimony. We are more likely, however, to call it "expert testimony" when it concerns a disputed fact,—as when we give the opinion of a scientist or a business man concerning events which he is supposed from his position to understand with accuracy,—and "authority" when it concerns inferences

Expert Testimony and Authority.

of a more abstruse character, or principles on which only certain authorities have the right to speak. A court, then, constitutes an authority on points of law; a church constitutes an authority on ecclesiastical matters; a book universally accepted as the source of information on matters within its province constitutes an authority within that province—like the United States Pharmacopeia, for example, in matters of drugs. All such authorities, evidently, to be useful for purposes of proof, must be recognized as authoritative by those for whom the disputed point is to be proved. A Spanish court will exercise no authority over the judgments of American lawyers; a Roman Catholic prelate cannot affect the judgments of Protestants on points of religion. The authority must be respected, or its authority, in matters of opinion, does not exist.

It was remarked in an earlier chapter that the use of the argument from authority is much slighter in general debate than in legal discussions. There are, in fact, few disputed matters on which an authority can be found, recognized by all whom one wishes to convince. In the matter of religion and theology, for example, there is no general authority recognized as existing on earth, outside the particular organs and officers of particular churches. The right of private judgment in religion, and the right of individual application of the principles of religion to

**Limitations  
of Authority.**

practical conduct, has become triumphant in modern civilization. If, then, one is debating a moral question, he is forced—except for a general appeal to certain fundamental principles of Christianity or ethics, such as he believes his audience accepts—to bring proofs bearing on the particular case in dispute and appealing to the private judgments of those addressed. He not only can no longer appeal to the church to declare that the sun goes round the earth, but he cannot appeal to it to tell certainly what is right and wrong. Men will decide according to their own consciences. And this is only one illustration of the decay of the argument from authority in modern debate.

On the other hand, wherever the question in dispute concerns matters in a particular sphere or organization, and there is in that sphere or organization an authority which those engaged in the dispute are bound to recognize, the argument from authority still has an important place. Examples are to be found in the decisions of the Supreme Court of the United States, on points relating to our constitutional law (though even here the private citizen does not hesitate to take issue with the court, if he is sufficiently venturesome); in the rules of order or by-laws governing various parliamentary bodies; and in the doctrines and practices governing particular religious sects. Where the authority, then,

Use of Argument from Authority.

is definitely recognized, the task of the debater is to make clear just what the authority declares, that it may be shown to have the effect of proof on the matter in hand. It is here in good part that the question of individual skill comes in. "In legal argument," says a distinguished lawyer, "where so much depends upon the marshalling of precedents, it is particularly important that the debater should make such a statement of his authorities as will bring out with clearness *the phases of them which it is to his interest to emphasize.*" And it is no less important, when authorities are involved, in general debate. As in the case of testimony, the debater usually has less time than the lawyer in which to develop his authority. To quote extensively will not only waste time, but to the average audience will be obscure and uninteresting. Much depends, therefore, on the rapid bringing out of the points of authority which are essential to the matter in dispute. When these points can be obtained, they are among the debater's most powerful weapons.

The third class of proof into which we divided legal argument was that of processes of reasoning applied to the facts obtained. This sort of **Processes of Reasoning.** proof is no more truly a matter of *inference* than the direct use of testimony or authority, but it involves inferences of a more elaborate and appreciable character. Let us consider these



processes according as they are based on matters *before* the fact in dispute, or on matters *after* the fact.

By matters *before* the fact in dispute are meant those circumstances leading up to the point under discussion, which, when the time of the disputed event is past, are examined as <sup>A priori</sup> Evidence, throwing some light upon that event. Of these the most important are those which may have been the *causes* of the disputed fact. Argument based on these has commonly been called argument from "Antecedent Probability," since the method of its use is to show that the event was possible or probable, on the ground that there was sufficient cause to produce it. The great example of this method of proof is found in the proof of motive in criminal cases. If B has been murdered, and A is accused of the crime, the first effort of the prosecution is to show that A had some motive in committing the crime. If it can be shown that he bore an old grudge against B, that B was aware of secrets which it was to A's interest not to have revealed, or that A would profit by the property of B at his death, then an aspect of probability is thrown about the charge. The object of the argument is to carry the minds of the jury to the moment immediately preceding the crime, and make them see that at that moment it was not unlikely that it would be committed by the accused person, if it was to be

committed at all. In like manner, after an accident to a railroad bridge, the attempt might be made to prove that the bridge was imperfectly constructed, not only from the fact of the accident, but from facts previous to the completion of the structure which would indicate such negligence on the part of the builders as to lead to faulty construction.

It will be noticed that the value of this sort of proof is wholly of a preparatory and corroborative character. Standing by itself, the proof of antecedent probability is absolutely worthless. No matter how many circumstances combine to make it probable that A will murder B, no one will bring A to trial if there is no evidence that B has been murdered. Nor will any one sue a builder on the ground of negligence, if there is no proof of actual fault in his work. Such proof is also worthless if there is a single piece of strong evidence on the other side. If A is shown to have been absent from the town where the murder was committed, at the time of its occurrence, no amount of proof of motive will have any weight against him. But on the other hand, it is to be noticed that proof of antecedent probability is a very valuable accessory to other sorts of proof, when the other proof is of a doubtful character. Without the most positive evidence against him, it is difficult to convict a man of a serious

crime if no motive for it can be shown. Such proof is valuable, too, not only as being corroborative of direct evidence, but as preparing the way for such evidence in the mind. Predisposed opinions have such weight that it is difficult to persuade men to believe even direct evidence, if they are convinced of its antecedent improbability. A striking example of this is the general disbelief in miracles and other alleged supernatural events. Most people do not take the trouble even to investigate such events when reports of them are circulated, and do not credit even what seems to be the evidence of their own eyes, because they are so firmly convinced of the improbability of supernatural occurrences. If they could once be convinced that such things were antecedently reasonable, that there was adequate cause for them in the constitution of the universe or the peculiar circumstances preceding their manifestation, it would be much easier to persuade them that the evidence was good. Advertisers of proprietary medicines make use of the same principle. Before presenting testimonies of cures, they make it plain why their particular remedy may be expected to cure such and such diseases, from the nature of both disease and remedy; after the *reasonableness* of cure has been indicated, testimony of cure is more readily received.

This suggests a somewhat wider use of the argu-

ment from antecedent probability than the proof which is based simply on an adequate cause for an alleged effect. The method may be used in general, to show that what one wishes to prove true is theoretically possible or probable, that it conforms to known laws, that it is *likely* to be true. Such proof is widely serviceable. In debating economic problems, for example, one may show that the alleged fact, if it can be proved to exist, will be in conformity with some recognized economic law. Or in proving a political proposition one may use the doctrines of authorities on political science to show that the proposition is likely to be true, and thus—in a sense—make the argument from authority a proof of antecedent probability. Proof of some hypotheses, indeed, like that of the immortality of the soul, is based almost entirely on this method of demonstration, and never reaches beyond the point of showing that the matter in question is *likely* to be true.

Another sort of proof dependent on reasoning from matters before the fact in dispute, is that from analogy or example. In a certain sense this method of proof runs through all the methods we have discussed or can discuss; for since all proof is a matter of inference based on experience, we must base our proofs on the resemblance between the disputed matter and similar matters which have come within the range of our

experience. Thus the inference that a voice indicates a person speaking, or that a smoke indicates fire, is based on a number of examples running through all our past experience, so numerous and orderly as to amount to actual demonstration. If the proof is based on only one or two examples, or on a resemblance so slight as to deserve no better name than *analogy*, we then say that the existing resemblance indicates a certain likelihood or probability that the fact in dispute will correspond to the similar fact of experience. Thus if a man has acted in a particular way under certain circumstances, we may argue that under similar circumstances he will act in a similar way. If the circumstances of a murder are similar to those of another murder occurring some time before, we may argue that the guilty person may be discovered in a manner similar to that previously employed. If the condition of a country, economic or political, closely resembles that of another country in a period known to historians, we may use the history of the other country to prove what we wish about the modern condition,—that is, as Patrick Henry said, we may judge of the future by the lamp of the past. In all these cases we infer from similar conditions that similar causes are or have been at work, and will be *likely* to produce, or to have produced, similar results.

The weakest form of this argument, the argu-

ment from analogy, is frequently abused. Many debaters in fact mistake a mere illustration for a proof. That this mistake is a very old one is shown by some remarks of Sir Philip Sidney in his "Defense of Poesy":

"The force of a similitude," he said, "not being to prove anything to a contrary disputer, but only to explain to a willing hearer, the rest is a most tedious prattling: rather over-swaying the memory from the purpose whereto they were applied, than any whit informing the judgment, already either satisfied or by similitudes not to be satisfied."

The same thought was suggested by George Eliot, in connection with Mr. Stelling's "favorite metaphor, that the classics and geometry constituted that culture of the mind which prepared it for the reception of any subsequent crop."

"It is astonishing," she observed, "what a different result one gets by changing the metaphor! Once call the brain an intellectual stomach, and one's ingenious conception of the classics and geometry as plows and harrows seems to settle nothing. But then it is open to some one else to follow great authorities, and call the mind a sheet of white paper or a mirror, in which case one's knowledge of the digestive process becomes quite irrelevant. It was doubtless an ingenious idea to call the camel the ship of the desert, but it would hardly lead one far in training that useful beast."

Resemblances, then, may illuminate an argument

when they admittedly indicate that similar principles are involved; otherwise they are mere rhetorical embellishments. In a debate on the prohibition of the liquor traffic the advocate of prohibition compared the liquor traffic to a deadly upas-tree, and urged that the only thing to do with such a tree was, not to trim it or fence it, but to cut it down; this indicated the method of prohibition. His opponent replied that, while it might be a good plan to cut down the tree, a great tree cannot be felled at a stroke, but that one must chop a little on one side, then a little on the other, and that a long period of maneuvering is necessary before the fall of the tree can be accomplished. The impression produced was that the second speaker had the best of the argument. He had in fact made use of a rhetorical opportunity, such as hastily chosen illustrations will commonly afford; but neither speaker had done anything by way of proof. The first one had illustrated the principle that an admitted evil is to be destroyed if possible; the second had illustrated the principle that evils cannot always be destroyed at a single blow. Both principles were perfectly obvious; the question as to which of them applied to the liquor traffic in the particular community concerned, was still untouched.

These are some of the methods of argument based on matters before the fact in dispute. They

are often valuable as introductory to more direct proof, in order to prepare one's hearers for such proof and to indicate that one's proposition is reasonable and probable; they are rarely of value standing by themselves. We now turn to proof based on matters *after* the fact in dispute.

Corresponding to the argument from antecedent probability, which attempts to show the probability of an event by pointing out causes likely to produce it, is the argument which points out *effects* likely to have been produced by the event in question. This is a safer method of proof than the former, since it is easier to see the cause of an effect than to predict an effect from a cause. If a man has been shot we know that someone shot him, but if a man has fired a shot we cannot say certainly that it took effect. Or, if an act has been accomplished we know there was a motive back of it, but we cannot be so sure that a motive will be completed in action. Proofs arising from facts appearing after the disputed event, indicating the disputed event as their cause, are therefore among the most highly valued methods of argument. They are frequently called arguments from "Sign," the effect being regarded as the sign of the cause.

Thus in a trial for murder, all the facts relating to the accused person after the occurrence of the crime belong to proofs of this class. The fact that



the accused was found with a smoking pistol in his hand, that there was blood upon his garments, that footprints near the place of the murder correspond with the shape of his shoe, that he hid himself and showed consciousness of guilt,—all these are effects indicating his guilt as the cause. Or, in a suit based on criminal negligence in a railroad accident, evidence drawn from the condition of the track where the accident occurred, or from the condition of the signals in a switching-tower, would be effects indicating criminal negligence as their cause. The same sort of proof is common in all kinds of debate. The use of statistics furnishes a familiar example. In order to prove that a certain tariff or monetary system has been beneficial to the country, statistics are quoted showing increased prosperity in the years following the time when the system in question took effect. Such facts indicate the beneficial operation of the law as the cause of the increased prosperity.

But this method of proof, while it is more to be relied upon than proof from antecedent probability, yet has marked limitations. It will already have occurred to the reader that the examples just given belong to that sort of proof which is called “circumstantial evidence;” and the danger of relying too implicitly on such evidence has passed into a proverb. Much hesitation is felt in convicting a man of a crime on cir-

**Limitations  
of Circum-  
stantial  
Evidence.**

cumstantial evidence alone. Some striking works of fiction, such as Miss Green's "Leavenworth Case" and Miss Woolson's "Anne," have been written to illustrate the danger of such judgments. The source of the danger is evident on a moment's thought. This method of proof is based on two assumptions: first, that the alleged fact was of itself sufficient to be a cause of the known fact; and second, that there was no other fact, existent at the same time, which may have been sufficient cause of the known fact. These assumptions, especially the second, are difficult of certain proof. Men have therefore been convicted of crime on the ground that known facts could be accounted for only by their guilt, and other facts have afterward been discovered which were ample to account for the facts first known, without the assumption of guilt. The difficulty is to prove so large a negative as the statement that there are *no other possible causes* than the one alleged. The same difficulty is strongly felt in general debate. It forms the chief hindrance to the use of statistics in such arguments as those indicated a moment ago. If one is to prove that the prosperity of a given year was due to a certain tariff law passed the year previous, he must, theoretically, be prepared to show that there was no other cause operating to produce the prosperity, as well as that the law in question was competent to produce it. But in public affairs all man-

ner of causes and effects are almost inextricably interwoven, so that it is a serious task to trace out any one event or force to its own particular consequences. Students of natural science, in order to study cause and effect, arrange materials so as to isolate the particular event under investigation from all concomitant circumstances, and perform original experiments in order to test their theories. But students of economic and political laws cannot ordinarily do anything of this kind. Such difficulties are so well recognized that many economists confine their proofs almost entirely to the range of theory,—that is, of antecedent probability,—declining to give evidence drawn from concrete facts. This, however, of course imperils the convincingness of their arguments. It is usually dangerous to let either the argument from cause or that from effect go without the support of the other. If antecedent probability and sign agree, one's case will be strong.

Thus far we have been considering methods of proof most clearly applicable to questions of disputed *fact*; questions, that is, in which inferences are to be drawn from one <sup>Processes of Reasoning.</sup> fact to another. Beyond these are the more complicated problems of interpretation and application. Such problems, however, when analyzed, are found to depend upon such simple processes as we have already consid-

ered. If one can establish the general principles on which one's case must be decided, and if one can then search out and establish the essential facts that belong to it, the rest is simply that application of facts to principles which any normal mind can be trusted to make. This is the sort of reasoning that is expressed in the syllogism. When one says that all men are mortal and that A is a man, it only requires that the two facts shall be set forth so as to be readily compared, in order to have it believed that A is mortal. In like manner, if one shows from the Constitution that an *ex post facto* law is forbidden, and then, from an analysis of its text, that a given law is an *ex post facto* law, the conclusion is plain. The third term of the syllogism never needs to be proved. The great task of the debater, then, is to set forth the principles and the facts at issue in such a manner that their relations are perfectly clear and that the minds of those addressed will proceed naturally to the conclusion.

Something should be said of methods of proof in questions of *policy*, beyond what was suggested regarding them in the chapter on Debatable Questions. Such questions differ from those involving legal discussion, because they are directed not to the past or present, but to the future. If one argues for the adoption of a certain law, the election of a certain candidate, or the acceptance of a certain line of

Proof in  
Questions of  
Policy.

conduct, he is dealing with issues not yet reached, and to which the rules of evidence applicable to past events cannot be directly applied. Yet the proof of *facts* is almost always involved. The choice of the candidate will depend on proof as to his career in the past; the passage of the tariff law will depend in part upon what can be shown of the effect of previous tariff laws; the adoption of a line of conduct will depend on the fact that others have prospered by its adoption. These questions of policy, as was hinted in the former chapter, commonly depend first upon *principle*, secondly upon *interest*. The task is to show that a given proposition is theoretically just or reasonable, and then that it will be practically useful. This may be compared with the method of proof based on matters before the fact and that based on matters after the fact. In other words, one will seek first to show the antecedent reasonableness of the policy, before giving evidence of its probable success. The reasons for doing this will be the same that lead one to use the argument from antecedent probability on questions of disputed fact. The effort is really to raise, at the outset, a presumption in favor of one's case. We may recall the examples suggested, in the last chapter, of arguments in which such an effort was made. Thus in the argument on woman's suffrage the effort was to show, in the first place, that the adoption of woman's suffrage

would be on the face of it reasonable and natural, in consideration of the theories of government held in a republic like our own; then, in the second place, to show that the evidence of experience favored the plan, as beneficial to the state and its interests. This general method of proof, two-fold in its form, is applicable to all sorts of debatable questions. The general development of the argument will be, (1) The proposition is *likely* to be true; (2) It *is* true as shown by the facts in the particular case examined; and we may add, (3) It will be true in all corresponding cases.

Let us further illustrate these various methods of proof by a number of typical outlines, suggestive of the general manner of setting about the preparation of argument.

Typical  
Schemes of  
Proof.

(I.)

*A is guilty of crime.*

I. He committed the act charged.

1. It was antecedently probable that he should do so.

a) Facts that were competent *causes*.

b) Facts drawn from similar cases.

2. He is shown to have done so.

a) Direct testimony.

b) Facts that are *effects*.

II. The law makes this act a crime.

1. There is every reason why it should (moral reasons).

2. Such and such a statute makes it a crime.

- a) It makes " $x$ " a crime.
- b) This act is " $x$ ."
- i. Authority in similar cases.

(II.)

*The proposed plan should be adopted.*

- I. It is antecedently reasonable.
  - 1. It is in accordance with precedent.
  - 2. It is just (i.e., in accordance with principle).
  - 3. It is favored by A, B and C.
- II. It is expedient.
  - 1. It meets existing needs.
    - a)  $x$  is needed.
    - a') It will supply  $x$ .
    - b)  $y$  is needed.
    - b') It will supply  $y$ .
  - 2. It has worked well elsewhere.
    - a) Testimony.
  - 3. The effects will be good
    - a) upon the interests of  $x$ ;
    - b) upon the interests of  $y$ .
- III. There is no better plan.
  - 1.  $x$  is not better.
  - 2.  $y$  is not better.

Such outlines as (I.) and (II.) evidently involve the syllogistic type of argument for the establishment of certain of their parts. Particular types of proof in syllogistic form are as follows:

## (III.)

*A is commendable.*

1.  $x$  is commendable, and
  - 1'.  $x$  is characteristic of  $A$ .
  2.  $y$  is commendable, and
  - 2'.  $y$  is characteristic of  $A$ .
- etc.

## (IV.)

*Evils exist.*

1.  $x$  exists.
  2.  $x$  is an evil.
- etc.

## (V.)

*A is a case coming under the law  $x$ .*

1. The law  $x$  covers  $o$ ,  $p$ , and  $q$ .
2.  $A$  involves  $o$  ( $p$ , or  $q$ ).

Again, we may invert any of these types for the purpose of proving a negative. Thus (II.) inverted would become

## (VI.)

 *$x$  should not be adopted.*

- I. It is unreasonable.
  1. Contrary to precedent.
  2. Contrary to principle.
  3. In disfavor.
- II. It is inexpedient.
  1. Meets no existing needs.
    - a) It seems to be intended to meet  $a$ .
    - b) But  $a$  is not needed.
  2. Has proved unsuccessful.
    - a) Testimony.



3. Effects would be evil
  - a) upon the interests of A;
  - b) upon the interests of B.

III. There is a better plan.

1. *y* is better.

Finally, we may arrange the proof in such a way that all parts of it relating to general conditions may be treated together, as introductory, and all parts relating to the particular case in dispute in a second division. By such a method the full nature of the proof, perhaps of the proposition itself, is reserved with a sort of cumulative effect. Such a plan might take the form of

(VII.)

I. In a case like the present the true proposition must

1. Conform to the principle *x*.
2. Be consistent with precedent.
3. Meet existing needs, such as *a*, *b* and *c*.
4. Have proved successful where tried.
5. Satisfy the interests of A, B and C.
6. Explain all the facts in the case.

II. The proposition in question

1. Violates the principle *x*.
2. Is inconsistent with precedent.
3. Does not meet needs such as *a*, *b* and *c*.
4. Has proved unsuccessful where tried.
5. Is opposed to the interests of A, B and C.
6. Fails to explain facts *x*, *y* and *z*.

It is of course quite impracticable to suggest in this way all possible types of choice and arrange-

ment of proof. It is sufficient to show how a few such outlines indicate the general methods which may most conveniently be followed in the demonstration of ordinary propositions. The particular case must always determine how the methods are to be chosen and combined. The analysis of the question will show just what must be proved; one may then apply the means of proof described in this chapter to the thing to be proved and the audience to be addressed. To do this successfully one may ask himself these questions: What facts must I establish? By what witnesses can I establish them? Can I cite any accepted authority in my behalf? How can I show the antecedent reasonableness of my proposition? What evidence can I adduce that can be explained in no other way than by the truth of my proposition? And—if the question be one of policy,—how can I show that the proposition conforms to the principles in which my hearers believe, and to the interests which most concern them?

These, then, are the common methods of proof. But a word of caution must be said against the assumption that when one has found a *method* of proof he has really proved his case. Processes of reasoning, keenly devised, are all very well; but they must ultimately rest upon facts. To have these facts at his command is the business of the debater. No mistake is more common, among

young debaters, than the habit of making many assertions which, if true, would no doubt prove their case, but which are not backed up by evidence. Many a speech which seems to contain a good deal of material can really be reduced to a series of statements of the speaker's *opinions* about the subject. But the very fact that the subject is debated indicates, of course, that something more than opinions must be shown.

It will pay, then, to be honest with one's self, and consider carefully what can be proved conclusively for one's case, what can be proved only to a certain degree of probability, and <sup>Honesty.</sup> what cannot be proved at all. One need not confess all the weaknesses of his case to his hearers; but when one is speaking from conviction, it may be well to remember that other people's convictions ought naturally to be established on no better and no worse foundations than one's own. The proof that is sufficient for an honest speaker ought to suffice for an honest hearer. There is no need of asserting roundly what is after all only a probability or a guess. It gives one's opponent fine opportunity to trip one up. It is true that all proof is in a sense only an approximation to certainty; but if the certainty of the hearer can be made equal to the honest certainty of the speaker, and brought to the point of the desired action, that is enough.

## VI.

### METHODS OF REFUTATION.

THUS far we have considered the subject of proof almost entirely on its positive side: given a proposition, how to demonstrate the truth of it? But in the case of a debatable subject there must always be in mind the other side of one's task: namely, how to demonstrate the error of the opposite proposition. When one has the negative side, indeed,—the opposite side from that on which the burden of proof chiefly rests,—refutation constitutes the great part of one's work. And it has already been remarked, in the chapter on Preliminary Work, that the study of both sides of the question, and of what is necessary to be said on one side in refutation of the other, is an indispensable part of the preliminary analysis. Before entering upon debate, therefore, the well-prepared disputant will have determined just what position he will take regarding every probable argument of his opponent, quite as definitely as he will have determined what direct proof he will offer for himself.

The outline of various methods of proof, as given in the preceding chapter, has already indicated, by

implication, the methods which are naturally to be employed in refutation. To refute an argument one must simply understand its weak points and aim at them. If no weak points can be found, it must be shown that the argument—though perhaps good in itself—is insufficient to prove the main proposition in dispute. The place and order in which this refutation will be undertaken are matters that we must consider a little later. For the present it will be well briefly to reconsider the various methods of proof, having in mind the manner in which they are open to attack.

The first division of proof was that relating to the simple establishing of the facts in the case, and this was seen to be done largely by the offering of testimony. In considering the Questioning of Facts. facts set forth by an opponent, one must first of all decide whether they may be admitted as true or whether they must be disputed. There is a choice, then, of three methods of refutation. One may say, The alleged facts are not true; or, The facts were correctly stated, but wrong inferences were drawn from them; or, The facts alleged are not true, and even if they were, the inferences would be unwarranted. If one can follow the second method with safety, time will of course be saved, and the opponent who has occupied himself in establishing the admitted facts may be regarded as having done quite as much for one side as for

the other. If, on the other hand, the alleged facts cannot properly be admitted, their incorrectness must be clearly pointed out. The simplest way of doing this is to show that they are on the face of them incredible: that they contradict each other, for example, or that they are inconsistent with facts generally known. Thus Mr. Lincoln is said to have refuted testimony regarding events alleged to have occurred on a moonlight night, simply by introducing an almanac and showing that there could have been no moonlight at the time in question. It may be that one can indicate the incredibility of alleged facts simply by proving the contrary facts. Yet if testimony has been offered by the other side, it will ordinarily not be safe to ignore it. If no witnesses have been produced, testimony may simply be demanded; but if apparently good witnesses have testified, one must show distinctly why they are not to be believed.

All testimony, as was indicated in the last chapter, is based on the assumption that the witness is capable of knowing the truth about the point in question, and that he is willing to tell it. If the witness can be shown to be prejudiced, then suspicion will be justly aroused. If statistics are offered by one side, and it can be shown by the other side that they were compiled expressly for the purpose of proving the disputed fact, by persons interested to prove it, a presump-

**Attacking  
Testimony.**

tion will have been raised against them. If the witness is distinctly a witness for the disputant on one side of the question,—if he has been sought out by that disputant, questioned so as to bring out what the disputant desires to show, and perhaps even prompted or coached in advance of giving testimony,—his testimony will in so far be open to question. And on the other hand, if the witness can be shown to be of incompetent judgment, so as not to be trusted in dealing with the particular matters in question, the effect is of course the same. Thus a color-blind person, or a deaf person, would be incompetent to testify on matters requiring the use of the senses; and there are many matters, involving elements of art, or mechanics, or practical business, on which witnesses must speak according to their education or experience along particular lines. If testimony can be shown to be worthless in no other way, one may attack the general character of the witness so as to destroy belief in his truthfulness.\* All these methods are well recognized in courts of law, and skilled lawyers

\* A classic example of skillful handling of an opponent's evidence is Lord Erskine's great speech in defense of Lord George Gordon, February 5, 1781. A great part of the defense consisted in the analysis of the testimony presented by the Crown, either the character of the witnesses or the consistency of their testimony being attacked. See the reprint of the speech in Baker's "*Specimens of Argumentation*," especially pp. 111-131.

spend much time in refuting the testimony offered by the other side, by means of cross-examination of witnesses and the like. In general debate one is forced to refute testimony in a more rapid and more indirect fashion. The debater must emphasize clearly the points about the testimony or the witness which are open to attack, so as to destroy belief in the alleged facts in the minds of those who have heard them stated.

Closely connected with the handling of testimony, as we have seen, is the use of the argument from authority. Argument of this sort may of course be refuted by showing that the authority cited is really not competent to speak authoritatively on the matter in dispute;—that the matter is one, it may be, on which any individual is at liberty to form his own judgments, so that there can be no *ex cathedra* judgment set up to which reverence must be paid. This is the privilege of any debater, for example, when an authority is quoted on matters of religion or morals; he may appeal from the alleged authority to the individual conscience. Or, one may quote a dissenting opinion from an authority at least as good as that quoted by one's opponent, and thus raise a presumption that one's own position has at least as good standing as the opposite; a lawyer, for example, may quote the judgment of a highly respected court, like that of the Supreme Court of



Massachusetts, against that of another court less widely and favorably known. It may be said, however, that in a very large number of cases it is not worth while to attempt to refute directly the argument from authority. In most debates such an argument is at best merely corroborative,—proof, in a sense, of antecedent probability; and if the authority cited by an opponent is recognized and respected by one's audience, it may arouse prejudice to attack it in an obvious way. It will commonly be wiser to treat the authority courteously, but to heap up so much proof on the other side as to show great likelihood either that it was mistaken or that it was misinterpreted. Those who reverence any book or body of men may be led to forsake their authority unaware, when they would only be roused to defend it if it were directly attacked.

We come now to proof based on inference from matters *before the fact*. Proof based on a cause which it is argued was sufficient to produce the disputed fact, as in the case of proof of *motive*, may be refuted in one of two ways: by showing that the fact alleged as cause did not exist, or that, while admittedly existing, it was not sufficient to produce the disputed event. Thus in a case where it should be argued that an accident was due to defective construction on the part of the builders, on the ground that they had been observed to do their work in a neg-

Refutation  
of a priori  
Evidence.

ligent manner, opposing proof might be directed to show that there had been no negligence, or—that being impossible—to show that no amount of negligence, in the particular form charged, could have resulted in the accident whose cause was in dispute. In general, however, the argument from antecedent probability is not susceptible of satisfactory direct refutation. The same causes which make it a weak form of proof, standing by itself, make it difficult to overthrow it definitely. Thus in the case of proof of motive, it is usually impossible to prove that the motive was insufficient to account for the act alleged; and in general one cannot do much in proving what an alleged cause could *not* produce. The safest method of refuting this sort of proof is usually to set up a proof of antecedent probability on the other side; to show that if one's opponent's case is reasonable on the face of it, one's own is equally so; and hence to raise the presumption that the *a priori* argument of the other side counts for very little. If reasons have been set forth why A would be likely to have done a certain act, and one can in reply show good reasons why he was unlikely to do it, it cannot be said that the first argument has been definitely answered; but its effect has been largely destroyed.

The argument from Example, so called, is also likely to be of so slight a character as to require small attention from the opposing debater; it is

of course to be refuted, when necessary, by showing that the example cited differs in some essential particular from the case in dispute. When this can be done, the force of the example is destroyed. Thus it is common for lawyers, when the judgment of a court has been cited against them by the opposing counsel, to point out by way of refutation that while the case cited resembles the pending case in superficial features, there is a difference in one important particular, and that on that difference the decision of the court must turn. Or, when a debater cites the relations of England with her colonies as precedent for proposed policies in the case of the United States and dependent territory, it may be rejoined that there are essential differences between the conditions of government in England and the United States, which practically nullify the comparison. In a debate in favor of an international court of arbitration, it was argued by the affirmative that, just as tribes had grown out of families and nations out of tribes, so the establishment of international relations was a natural step in advance,—a step toward “the parliament of man, the federation of the world.” It was rejoined by the negative, however, that there is an important difference between the growth of government in the development of nations and federations, and that proposed in a mere treaty of arbitration: in the former case, *all*

departments of government have grown and been magnified together,—executive, judicial, and legislative; whereas it is now proposed to unite two nations in certain judicial arrangements, yet without any united legislative body for the promulgation of laws, and without any executive arm to carry the decisions of the international tribunal into effect. The refutation was ingenious and effective.

We must next consider the refutation of proof by inferences drawn from matters *after* the fact,—such proof as that by “sign” or circumstantial evidence. Our examination of this method of proof, in the preceding chapter, must have made clear the points at which it is open to refutation. This proof rests, we saw, on the assumption that the known fact can be accounted for only by presuming the disputed fact as its cause. If, therefore, it can be shown either that the disputed fact, if it existed, would have been insufficient to produce the known fact, or that there are other facts equally well known which might have produced it, the proof is overthrown. Thus in a trial for murder, if the case against the accused person rested on the fact that he was found near the scene of the murder with blood on his clothing, the defense would undertake to account for his presence and for the blood-stains, in such a way as to destroy the necessity of assuming that

Refutation of  
a posteriori  
Evidence.

his guilt was the only possible cause. Or, in the use of statistics, which we saw to be a common case of circumstantial evidence, when certain figures are offered as proof that a given law was beneficial, the opposing side must show that the figures can be accounted for on a different assumption. If they can go further than to show that they *could* be so accounted for, and show definitely that the cause may be known to be different from that alleged, the proof by "sign" is completely overthrown. An interesting case of this kind occurred in a debate on the so-called Norwegian or "dispensary" system of regulating the liquor traffic. The affirmative attempted to prove the benefits of the system by showing that after its adoption the arrests for drunkenness in the affected territory had greatly decreased in number. The other side, however, was able to make it appear that certain changes in the police regulations, occurring at just the time in question, were sufficient to account for the smaller number of arrests without indicating any diminution in the amount of liquor consumed.

This sort of refutation is one of the most important weapons of the debater. It deals with one of the most difficult duties of the rea- Causes and  
son,—that relating to causes and effects. Effects.  
The same reasons which make it hard to determine, when one has recovered from a disease, whether

the recovery is due to the medicine taken or to other causes, make it hard to decide on the results of particular laws and on many questions of public policy. When there is a defect in the argument from cause and effect, it is commonly due to the fallacy called by logicians the fallacy of "*Post hoc ergo propter hoc*,"—that is, the fallacy which assumes that because one event is observed to succeed another, it must be the effect of the latter. To refute this fallacy successfully requires, above all things, a mind well stored with *facts* pertinent to the subject in hand.

A good illustration of refutation under this head is quoted by Fowler, in his "Inductive Logic," from Professor Rogers's "Manual of Political Economy."

"There is not a shadow of evidence," says Rogers, "in support of the statement that inferior lands have been occupied and cultivated as population increases. The increase of population has not preceded but followed this occupation and cultivation. It is not the pressure of population on the means of subsistence which has led men to cultivate inferior soils, but the fact that, these soils being cultivated in another way, or taken into cultivation, an increased population became possible. How could an increased population have stimulated greater labour in agriculture, when agriculture must have supplied the means on which that increased population could have existed? To make increased population the cause of improved agri-

culture is to commit the absurd blunder of confounding cause and effect." \*

A fallacy may be called a *gap* in a process of reasoning, and it may be said in a sense that all refute the arguments of one's opponents. If Fallacies or Gaps. refutation consists in pointing out gaps in there is one such gap in an argument, sufficient to expose the whole case to attack from without, it matters little how strong the rest of the case may be; just as it matters little how large a break in the wall of a fort may be, if it is sufficient to admit the forces of the enemy. The task of the refuting debater, therefore, is to keep his attack concentrated on these weak points.

Let us examine some common classes of these gaps or fallacies. There may be, in the first place, a mere lack of evidence. The opponent may have

\* Dr. Fowler adds the remark that this argument "appears to ignore the fact that a population may have an insufficient supply of food, though what it does possess may be just competent to sustain life." The whole question indicates the difficulty of arguing accurately about economic conditions. The entire chapter on "Fallacies Incident to Induction," in Fowler's "Logic," is full of suggestions to students of argument. See, for example, the quotation from Sir G. C. Lewis (p. 323), in which it is pointed out that even when we have reduced our facts to those which are actually related as cause and effect, the different facts may act and react upon each other, so that each, in turn, is both cause and effect. So with industry and wealth, intelligence and good government, drunkenness and poverty, national character and environment, and the like.

made assumptions which he was bound to prove. This involves the so-called fallacy of *Begging the Question*. "Petitio Principii," or "Begging the Question." In its simplest sense, to beg the question, or to assume what one is bound to prove, is merely to make statements which appear to be convincing but which are really unsupported by evidence. In a larger sense this fallacy is involved in many inferences of a complicated sort. Thus one is said to beg the question when he uses a word at one time in one sense, and at another time in a different sense, and yet draws a conclusion depending on the assumption that the two words are the same. Many arguments involving the use of such words as "socialist," "democrat," "free trade," "expansion," and the like, really involve this fallacy. Thus the phrase "question-begging epithet," first used by Jeremy Bentham, has come to be commonly applied to any term applied for the very purpose of discrediting the person or thing in question. "It makes no little difference," says one writer, "whether we call a man a progressive or a revolutionist, a conservative or a reactionary." The term "Jingo" is a term of recent origin which well illustrates this sort of fallacy. A "Jingo" is, in the popular sense, a citizen over-noisy or head-strong in his patriotism; to say that a certain opinion, therefore, indicates "Jingoism," is to call it *over-noisy* or *unreasonably patriotic*, which is no



doubt the very matter in dispute. Such instances of begging the question are to be refuted by calling attention to the fact that the term used has two meanings, a colorless one and a prejudicial one, and that to apply them in the prejudicial sense is simply to assume what one must prove.

In a recent debate on a question relating to the extension of the suffrage, it was argued on one side that citizens have no inherent right to vote, since the state always decides just which citizens shall constitute voters. It was replied that such an argument really begged the question, since the very point at issue was: who constitute the state? and have a right to exercise authority in its name? To say, therefore, that the state sets limits to citizenship and suffrage is merely equivalent to saying that those who enjoy such privileges usually have a certain power to keep others from getting them; and nothing as to natural right is proved. This somewhat ingenious argument illustrates how the fallacy of begging the question appears in debate in all manner of forms. Similar examples are to be found in many discussions of monetary problems. Speakers often refer to an increase or diminution in the amount of currency in circulation, as though it meant an increase or diminution in the fortunes of individual citizens. "We are told," said a speaker in a recent political campaign, "that if this measure is adopted we shall have too

much currency. I do not know how you feel about it, but I have never yet seen the time when I had too much money, and I have never met any one else who complained that he had too much." A more question-begging argument could not be imagined. Whenever one has to consider the possibility of more money being brought into the country, whether by one means or another, he must ask himself: Will this money be the property of the government? Will it be in the hands of a few individual citizens? or Will it come into the general circulation? To assume that any one of these conditions is the same as any other, is to assume what must be proved.

A particular form of this fallacy is sometimes called "*Ignoratio Elenchi*," or "*Ignoring the Question*." This is a gap between the proof offered and the main question under debate. It appears when the debater really shifts his argument from one issue to another, and seems to have proved the matter in dispute when he can be shown to have proved something quite different. Such cases may arise from the use of ambiguous terms in two different senses, such as we discussed a moment ago. Or they may appear when the argument is shifted from the general principle under discussion to some one instance, and that instance is made to take the place of the whole question. Many debaters show marvelous skill in

gliding almost imperceptibly from one proposition to another, and it requires corresponding skill to make them hold their ground. Thus even lawyers, who are held within bounds more than most debaters, will—when their case is weak on the side of evidence—attempt to win juries by much talk about vague matters of justice and righteousness. In debates where the question is stated to be one of the *interests* of the nation or individuals concerned, one often hears argument relating solely to matters of theoretical right and justice, not involved in the question of interest at all. Whenever a debater indulges largely in vague talk about personal liberty, public justice, freedom and independence, and similar phrases, one may have a suspicion that he feels that his actual proof is weak, and is attempting to “ignore the question” without being discovered. This is the opportunity for effective refutation. In all such cases it is one’s privilege to admit everything that has been said on the side issue, and then show with rigid distinctness just what the question involves, and how this has been neglected for other things.

It will be seen that these various fallacies, so-called, cannot be perfectly distinguished from one another, and applied as exact names to particular arguments. Their boundaries intermingle and are easily lost. In a sense most flaws in proof may be called instances of “non sequitur,”—that is,

mistaken inferences where we say, "It does not follow"; in a sense nearly all may be called instances of "begging the question." It is of little importance to name them. The point is to recognize where there is a *gap* in the proof which invalidates the argument, and to make this so clear that the effect of the fallacious argument will be swept away.

A particular method of refutation which is widely used, and of which a word should be said at this point, is that called the "*Reductio ad Absurdum*." This is a term borrowed from geometrical demonstration, where the process is very familiar. If we wish to show the impossibility of constructing a triangle of which one side shall be longer than the sum of the other two, we draw a triangle and declare—for the moment—that one of its sides is longer than the sum of the other two; then we show to what absurd conclusions this immediately leads us. The process in general argument is precisely similar. We assume that the proposition we wish to refute is true, and then point out to what absurd results it leads. This method may of course be applied to the main question against which we are debating, or to any particular proposition which has been raised by an opponent. When well done it is among the most effective means of refutation. A particular form of it is called the Dilemma, when one can show that

an opponent's position must lead to one of two alternate results, and can then show the falsity of each of these.

A story is told of Mr. Lincoln, in the early years of his career as a lawyer, that he had to defend a man accused of murdering another by striking him down with a shovel in the village store. The witnesses for the prosecution all agreed as to the places where the murdered man and the murderer were standing at the moment of the crime. Mr. Lincoln measured off in the court-room distances corresponding to those indicated by the testimony, himself took a shovel in his hand, and then showed that—although he was considerably taller than his client—it was quite impossible for him to reach as far as from the point where the accused was said to have stood to the place where the murdered man fell. The testimony for the prosecution was thus, in a sense, reduced to an absurdity. In a sense, too, this is done wherever witnesses can be shown either to contradict themselves so strikingly, or to agree with such suspicious exactness, as to make it absurd to credit the statements to which they testified.

A familiar example of the *reductio ad absurdum* occurs in Macaulay's Copyright speech of 1841.\* He was arguing that any copyright is open to cer-

\* See the speech, in Baker's "Specimens of Argumentation," and the Brief in the Appendix to this book.

tain objections on the ground that it is a monopoly, and that monopoly always makes things dear.

“ If, as my honorable and learned friend seems to think, the whole world is in the wrong on this point, if the real effect of monopoly is to make articles good and cheap, why does he stop short in his career of change? Why does he limit the operation of so salutary a principle to sixty years? Why does he consent to anything short of perpetuity? He told us that in consenting to anything short of perpetuity he was making a compromise between extreme right and expediency. But if his opinion about monopoly be correct, extreme right and expediency would coincide. Or rather why should we not restore the monopoly of the East India trade to the East India Company? Why should we not revive all those old monopolies which, in Elizabeth’s reign, galled our fathers so severely that, maddened by intolerable wrong, they opposed to their sovereign a resistance before which her haughty spirit quailed for the first and for the last time? Was it the cheapness and excellence of commodities that then so violently stirred the indignation of the English people? I believe, Sir, that I may safely take it for granted that the effect of monopoly generally is to make articles scarce, to make them dear, and to make them bad.”

The same method is used in the speech on Mr. Cleveland’s Venezuelan Message, quoted in the Appendix. In reply to the objection that the President had adopted an unduly warlike tone in his

reference to our relations with Great Britain, the speaker said:

“Doubtless he should have said that, although he believed the American people support his position, yet if Great Britain should object we would of course submit; and that no serious consequences could possibly occur, since no consideration of our own rights could compare with the evil of having to fight for them. We are not in the habit, however, of electing Presidents who talk that way.”

Sometimes this method appears when there is an opportunity to show the weakness of an opponent's position simply by stating it in another form. Thus Senator Hoar, in a recent debate in the United States Senate, referred in this way to Senator Beveridge's claim that to establish good colonial governments in distant islands would stimulate good government at home:

“If I understood him correctly, he said also that he thought it was not necessary to wait until we could get the very best of government here, but if we established it abroad under some commissioners to be appointed by some executive authority, they would govern so well that they would furnish a good example for us at home, and we should improve. I suppose, though he did not say it, that he thinks also we had better not have free speech here in the United States Senate until they have got it out among the Filipinos, to see whether it works there, and then it may come back to us

in a way which gradually would permit us to use it here, in a sort of diluted form." \*

The form of the method of Dilemma is equally familiar. A single example will suffice, taken from  
 The Di- Lord Mansfield's great speech in the case  
 lemma, of Evans, before the House of Lords in 1767. His claim was that to be a Dissenter from the Established Church was no longer recognized by law as in any sense a crime.

"If it is a crime not to take the sacrament at church, it must be a crime by some law; which must be either *common* or *statute* law, the canon law enforcing it being dependent wholly upon the statute law. Now the statute law is repealed as to persons capable of pleading that they are so and so qualified; and therefore the canon law is repealed with regard to those persons.

"If it is a crime by common law, it must be so either by *usage* or *principle*. But there is no usage or custom, independent of positive law, which makes nonconformity a crime. The eternal principles of natural religion are part of the common law. The essential principles of revealed religion are part of the common law; so that any person reviling, subverting, or ridiculing them may be prosecuted at common law. But it cannot be shown, from the principles of natural or revealed religion, that, independent of positive law, temporal punishments ought to be inflicted for mere opinions with respect to particular modes of worship.

\* *Congressional Record*, Jan. 9, 1900.



“Persecution for a sincere though erroneous conscience is not to be deduced from reason or the fitness of things. It can only stand upon positive law.” \*

Such forms of refutation as these depend upon the ability of the debater quickly to analyze and test the reasoning processes of his opponent. Skill of this sort is of the greatest Facts in  
Refutation. service; but an equally important element in successful refutation is, as has already been indicated, an ample knowledge of all the *facts* in the case in dispute. It is, after all, mastery of incontrovertible facts rather than ingenious reasoning which is likely to be most convincing; and if in the progress of an argument a debater is able to bring forward facts which have been neglected by the other side, the effect is most important. This is to show a great gap in the structure of one's opponent; if he has built up his argument regardless of essential matters, he has built it—no matter how finely—in vain. Many striking examples of this will occur to those who have listened to well-fought debates. Not long ago a public official was attacked by one who was a candidate to succeed him in office. The official was a prosecuting attorney. It was proved that he had left untried several hundred criminal cases that were awaiting attention, that many of

\* See the whole speech, in Baker's "Specimens of Argumentation."

these had remained on the docket for months and years, that several of them were cases involving serious charges, three being based on indictments for murder. When the attorney appeared in person to reply it seemed that the evidence was overwhelmingly against him. He showed, however, that he had tried as many cases as the courts would give him time for; that of the hundreds remaining on the docket most related to trivial charges of assault or breach of the peace; that in the case of many of these the parties making the complaint had themselves requested the withdrawal of process; and that of the three persons not yet tried for murder, two had committed suicide, and the third had run away! It was a striking instance of the way in which an apparently strong case may be overthrown by the presentation of facts which the other side has ignored.

Let us now briefly summarize the methods of refutation we have been considering, so as to indicate roughly the various possible types of argument one would be likely to adopt, in attacking the proof of another.

In general, one may refute the argument of an opponent either (1) by showing that the facts in the case are not true as alleged; or (2) that, the facts being admittedly as alleged, the inferences drawn from them are incorrect; or (3) that the alleged facts are not true,

Methods of  
Refutation  
Summarized.

and that even if they were true, the inferences are unwarranted. It is important that there shall be no doubt, in the mind either of the debater or of his audience, as to which of these positions he wishes to occupy.

In particular, one may refute opposing arguments—

(1) By showing that the witnesses cited are either (a) prejudiced, (b) of incompetent judgment, or (c) morally untrustworthy.

(2) By showing that the evidence alleged is incredible because (a) inconsistent with known facts, or (b) self-contradictory.

(3) By showing that the fact alleged as sufficient *cause* of the disputed fact either (a) did not exist, or (b) was insufficient to act as cause in the manner alleged.

(4) By showing that the fact alleged as the *result* of the disputed fact (a) did not exist, or (b) is not evidently a sign of the disputed fact, or (c) that there were other acting causes.

(5) By showing that examples cited are different, in essential points, from the case in dispute.

(6) By showing that the opposite side has assumed something which it was under obligation to prove.

(7) By showing that the proof offered does not bear directly on the matter in dispute.

(8) By showing that statements made lead to admittedly absurd conclusions.

(9) By showing that the opposite side has ignored essential facts.

It remains only to add a few suggestions regarding the general character and use of refutation.

**The Principle of Refutation.**

In the first place, regarding the need for such direct refutation as we have just been considering. It may be thought that it is enough to prove one's own case directly, without disproving that of one's opponent. But where the question in dispute is genuinely debatable, this is never safe. If one side of a proposition is proved directly, and then the other appears to be proved equally well, the result is confusion. The audience finds difficulty in judging between the two arguments, and may be left to base its judgment on mere trivialities, not being able to decide on the merits of the case. Where a debater contents himself with proving his own case, finely scorning the arguments of his opponent, he has his hearers at his mercy for the time being; but if his opponent has the last word, he will leave no permanent effect. It should not be forgotten that persons cannot be soundly convinced of the truth of a disputed proposition, until they have not only been shown the arguments in its favor, but the defects in the arguments brought against it. More than this, the refutation of opposing arguments should,

if possible, show not only *that* they are false, but *why* they are false. The effort should be to lead one's audience to see just how one's opponents came to mistake the truth of the question, and to be led into the sort of proof they offer. If one shows only the fact that a statement is to be disbelieved,—that *something* is wrong with it,—it may still crop up again and be believed in a different form; but if one can make clear its fundamental error, he has destroyed its chances of effectiveness in the minds of his hearers.

Yet while refutation should be so thorough, from this point of view, in another sense there is need for a word of warning against carrying the attempt at complete refutation too far. Many debaters make the mistake of attacking everything said by their opponents, so long as there is the slightest chance of attacking it, with little regard for its importance in the argument. Statements made by one's opponents in debate may be roughly divided as follows: first, those which one may admit to be true without compromising one's case; secondly, those which are open to attack, but which have no bearing on the argument,—mere errors of memory or the like; thirdly, those which may be questioned and which have some connection with the argument, but which evidently make no great impression on the audience addressed; fourthly, those which must be

Distinction  
between op-  
posing Ar-  
guments.

overthrown in order to destroy the impression that they are strong proofs on the opposite side. These four classes of statements require very different treatment. The first class should be admitted to be true, in order to clear up the ground of argument so far. The second class should be ignored altogether. The third class should be lightly touched upon, and briefly refuted if there is sufficient time. The fourth class should receive the brunt of the refutation. A watchful debater can easily tell which portions of the opposing argument have made an impression on the hearers, so that they must be overthrown if his own case is to make a good showing. Yet one often sees much time wasted in the refutation of statements which have made no special impression, merely because they can be refuted. The typically clumsy debater may be easily known in what he calls his rebuttal argument; he has noted down on a slip of paper a long list of "points" made by his opponent, which he rehearses for the purpose of attacking them; some of them are mere illustrations, passing thrusts, perhaps mere misquotations or slips of the tongue. His refutation is a long series of short dabs at all parts of his enemy's armor, without a single sweeping stroke at a vital part. Choice and emphasis are as important qualities in refutation as in all other sorts of discourse.

All this goes to show, what was pointed out in

the chapter on Preliminary Work, that one must make as careful a study of the case of his opponent as of his own. One must know its strong points and its weak points, and show the audience that one understands it and appreciates its material. Oftentimes one of the most useful methods of refutation is simply to state the case of the opposite side better than it has been stated by its adherents, and then to analyze it so as to exhibit its flaws. If they have stated it in the form of abstract principles, one may put it in concrete form, and perhaps make the absurdity of the principle clear by a practical illustration; or, if it has been stated in a specific form, one may restate it in the form of the general principle involved, and show the unreasonableness of that. Oftentimes the most important element in refutation is to show that the opposite side has really misunderstood or misrepresented one's position, and to relieve it from the error that has gathered about it. One needs constantly to avoid letting the discussion be led off to side issues, by turning back at every step to the real issue under consideration. Many objections raised by opponents are quibbles about words, and the simplest way to dispose of them is to recall the minds of the audience to the *real situation*. "If you will turn back," said a debater on one occasion, "from the imaginary cases which my opponent has presented for our solution, to the

Knowledge  
of the Other  
Side.

question with which we started, it will be clear that the difficulties raised do not exist in actual conditions, but are only theoretical and imaginary." But in all these cases equally, it is clear that not to understand the position of the opposite side will be to run every risk of defeat.

This leads us to a final thought, regarding the general attitude of the debater toward his opponent, during the process of refutation.

**Attitude toward Opponent.** Should he treat his adversary as an enemy, or as a friend who has gone astray? Should he pour forth scorn upon the arguments he has to answer, or treat them, when he can, as deserving of respectful consideration? The former method is undoubtedly in frequent use, but the latter is undoubtedly the more intelligent and safe. It is the clumsy debater who begins his reply by saying that he has really heard nothing worthy of being answered, and that he has been astonished to see how much breath has been wasted in the absence of real argument. Besides being a boorish and discourteous method of retort, this style of rebuttal does small credit to the case one is discussing. If there is really nothing requiring one's powers of refutation, small skill is needed in one's reply. But if the adversary has really made out a strong case, and one is ready to admit it, the task of rebuttal is seen to be worthy of one's best powers. It happens, therefore, that those debaters



usually win the greatest respect and show most real argumentative power, who recognize from the first that there is something to be said on both sides of the question, that something has been said on the opposite side from their own, and that the arguments of their opponents—at the point where they cannot be admitted as valid—deserve respectful treatment and serious reply.

It must of course be admitted that something depends on the character of one's opponent. Occasionally it seems to be necessary to answer a fool according to his folly, and a boor according to his rudeness. Something, too, depends upon the audience. If one has been unfairly treated in debate, if one's opponent has persistently misrepresented one's position, or indulged in the rudeness of personal attack, then one may well leave the mild manner in which he would have preferred to speak—not, indeed, in order to return the misrepresentation and abuse in kind, but in order to strike back with genuine indignation and reproach. If the audience has perceived the unfairness, it will be ready to join in the indignation of the reply. But one must not anticipate his audience too far, and show much more feeling than they can easily share.

The sympathy of the audience is, indeed, the great end of the wise debater. If he can carry them with him, his success is assured. The audience may be a single man, such as a judge in a court of law,

it may be a half dozen judges, or a crowded popular assembly. If it is desired not merely to show one's skill in argument, but to carry the hearers along in the train of one's argument, to bring them to see from one's own point of view, then the manner of attack must be friendly. If they hold some of the opinions which one is engaged in refuting, they will not listen if those opinions are treated with scorn. They must be approached as friends. It must be assumed that they are anxious to know the truth, and will eagerly receive it if they can be made to see it aright. The debater, then, should seek not only to destroy the error he is refuting, but—if possible—at the very moment of doing so, *to build up the corresponding truth*.\* His refutation should be keen, unflinching, thorough, but at the same time respectful, friendly, and not merely destructive but constructive as well.

\* A good illustration of this method will be found in the speech on the Retirement of the Greenbacks, quoted in the Appendix, where the argument of the negative, though in form refutation, is largely built upon the advocacy of a *better* proposition than that offered by the affirmative.

## VII.

### STRUCTURE AND STYLE.

WE have now reached the point where the work of the debater is to be put into its final form. The question has been analyzed; the outline of proof has been determined upon; the methods of proof and the evidence have been chosen; and the arguments of the opposite side have been examined, so far as possible, with a view to refutation. For some debaters the hard part of the work has been completed; for others it has just begun. Some, that is to say, will find that when they have gathered and arranged their material, the matter of verbal form goes far toward looking out for itself; while others enjoy the more exacting task of preparation, but find themselves awkward when it comes to clothing their material in pleasing form.

The outline or brief, prepared as the result of the preliminary work of the debater, should form the basis of his finished argument. Its order and divisions will, in a general way, indicate the order and divisions of his speech, —subject, of course, to such changes as the laws of rhetoric or the exigencies of the debate may sug-

Matter and  
Form.

The Outline  
the basis of  
Structure.

gest. Certainly his outline will provide for the three general divisions of his argument, the Introduction, the body of proof, and the Conclusion. Let us briefly consider these divisions.

The object of an Introduction is twofold. In the first place it serves to furnish the basis for the debate, in an adequate statement of the question in dispute and the reasons for considering it. In the second place, to use the familiar saying of Cicero, it aims to render the audience "*benevolos, attentos, dociles,*"—well-disposed toward the speaker's personality, attentive to his speech, and ready to be instructed by his arguments. These results are secured largely by a combination of the qualities of clearness and persuasiveness. The opening of a speech in debate, unless it is to be immediately connected with a speech which has just preceded it (when practically no introduction may be required), should state in unmistakable terms the nature of the question under consideration, and its origin—that is to say, the reason why it deserves attention from the audience. It should also state very briefly (or refer to them if they are perfectly well known) the fundamental facts in the case, in so far as they are agreed upon by both sides. If the burden of proof rests upon the speaker, he may do well to admit the fact frankly, and at the same time in a way that will lead up to his intended attempt to shift the burden upon the other side. If the presumption is in his

favor, he will do well to point this out in a manner that will not arouse prejudice by its arrogance. He will then make clear what he feels to be those elements in the subject which should especially interest the audience, and upon which the case must chiefly rest. All this—unless the circumstances are unusual—should be done in a manner indicating respect for the opposite side in the debate, and showing that the speaker forgets himself and his personal interests in his desire to present his subject to the audience. Statements calculated to arouse the opposition of persons holding views different from the speaker's will, for the time being, be avoided. The effect will be that, at the end of the Introduction, the audience will know precisely what the debate is to be about, and precisely what the present speaker takes to be the main issue; they will also believe that he is capable of presenting his side of the case in a calm and fair frame of mind.

In a sense, of course, the debater has choice of more than one method in constructing his Introduction. He may state definitely not only Two Methods of Approach. the side of the case which he wishes to support, but the sort of proof which he intends to offer in supporting it. He may take the audience into his confidence, and tell them just what the plan of his speech is to be, in order that they may follow it as he proceeds and see that he does just what he proposed to do. Under ordinary cir-

cumstances, this method has great advantages. Thus it is common for lawyers, before presenting their proof in detail, to state to the court or jury precisely the points on which they wish to offer evidence, and just how they expect to show that those points establish their case. The court may then decide whether these "offers," as they are called, are admissible in view of the nature of the case. An audience in general debate enjoys being taken into the speaker's confidence in a similar way. Yet there may be cases where a different plan is advisable. When the cause to be defended is an extremely unpopular one, when the audience must be won—if at all—by slow and careful degrees, or when the proof to be presented is of such a nature as not to be appreciated until all the evidence is in, then the debater may adopt a more wary course. He may not explain the nature of his argument at the outset, perhaps not even admit which side he intends to establish; but may open up the question as though he had little interest in deciding it in either one way or the other, and then lead his hearers on by paths that they have not foreseen, until he brings them, unexpectedly perhaps, to the point which he wished them to reach. Such a plan requires skill, but is occasionally of no little value. The Introduction, then, either may or may not conclude with a clear statement of the plan of the speaker's argument.

Regarding the structure of the main body of proof, very little can be said that is applicable in a general way. The nature of the proof must determine the best order for its presentation. In general, however, it will of course be well to present at the outset the argument from antecedent probability,—proof that the proposition is *likely* to be true, or at least that there is no valid presumption against it,—since it is the object of this argument to prepare the minds of skeptical hearers for the stronger proof that is to follow. There are perhaps very few cases in which it is not well for the debater, immediately following his introduction, to show in a general way the antecedent reasonableness of his proposition, before stating direct evidence in its behalf. Such proof leads up gradually and persuasively from the introductory matter to the central portion of the argument. Examples of this sort of procedure have already been given in considering the burden of proof and methods of proof. Following the argument for antecedent probability naturally comes such proof as circumstantial evidence. In the case of questions of policy, proof relating to the *principle* involved would naturally be followed by that relating to the *interests* involved. These are the general rules of order which suggest themselves to any intelligent debater.

Sometimes it is necessary to consider what the

order of arguments shall be, viewed from the standpoint of their relative strength. Shall one proceed gradually from the weaker sort of proof to the stronger? Certainly this would be better than the reverse order. Rhetoricians generally agree, however, that the beginning and the end of discourses and parts of discourses are the places of greatest emphasis; one's best material, therefore, should naturally come here. The weaker proof may then be brought in in a position protected by what has preceded and what is to follow; there will thus be a chance that its weakness may escape observation. Sometimes it is necessary to place one's very best proof at the beginning of the argument, in order to overcome prejudice or to overthrow the effect of a speech just made on the other side. Genung remarks—what is undoubtedly true—that in such a case this strong proof should be briefly repeated at the end of the argument, in order to secure the benefit of its force in that emphatic position.

In general it is to be said that all rules regarding the ordering of material are to be regarded as merely provisional, when it comes to the

Exigencies  
of Debate.

exigencies of actual debate. This is particularly true in the cause of refutation.

One may and should plan the order of his refutation according to a consistent scheme, so that it will take its place easily and clearly in



connection with the direct proof. He should make up his mind where it will probably be best to take up the main points of his opponent's argument, and where it will be best to return to the matters wherein his opponent may have attacked his arguments as first advanced. But the circumstances of the debate may, and often will, make it necessary for him to throw this plan overboard, and spring at once to the point where it has become evident that the main contest is going on. It is not the order in which ideas ought theoretically to have precedence, but the order in which ideas present themselves to his hearers, that he must consider; and if he insists on proceeding according to his original plan, when the audience is impatient to hear what he has to say upon some matter that has become prominent in the discussion, he will be likely to lose his case.

In the concluding arguments made before the Supreme Court of the United States in the famous "income tax" cases, occurred an interest-  
ing example of what we may call inverted Inverted  
Refutation. refutation,—refutation, that is to say, where the point last made by an opponent was the first to be taken up by the debater in reply. This argument was carried on by two of the most distinguished American lawyers, Mr. Carter for the government, and Mr. Choate for the opponents of the income tax. In his concluding speech Mr.

Carter, having finished his positive constitutional argument, made a final appeal urging the court to abstain from interfering, on technical grounds, with the will of the people. The present subject, he said, was one calculated to arouse the interests, even the passions, of the people, and to array class against class. "Nothing could be more unwise and dangerous than an attempt to baffle and defeat a popular determination by a judgment in a lawsuit. When the opposing forces of sixty millions of people have become arrayed in hostile political ranks upon a question which all men feel is not a question of law, but of legislation, the only path of safety is to accept the voice of the majority as final." Mr. Carter even hinted that previous attempts on the part of the Supreme Court to thwart the popular will had been swept away by the power of public opinion. When Mr. Choate rose to reply he referred facetiously to Mr. Carter's eloquent warnings, and continued: "It never would have occurred to me to present either as an opening or closing argument, to this great and learned court, that if, in their wisdom, they found it necessary to protect a suitor who sought here to cling to the Ark of the Covenant, and invoke the protection of the Constitution, that possibly the popular wrath might sweep the court away. I have had some surprises this morning. I thought until to-day that there was a Constitution of the United

States, and that this court was created for the purpose of maintaining the Constitution as against unlawful conduct on the part of Congress." In this way Mr. Choate swept away whatever effect had been produced by the peroration of Mr. Carter. One need not suppose, of course, that either passage had any important effect on the court or the case. They were the mere by-play of giants in controversy; but they illustrated the method of skilled debaters. In particular, the incident showed how it may sometimes be well, at the opening of one's argument, to sweep away an effect just produced by an opponent, before proceeding with one's own case.

This brings us to the matter of the Conclusion. The Conclusion should be the point at which the skill of the debater is most in evidence, <sup>The Con-</sup> and where he masses all his forces for <sup>clusion.</sup> final attack and victory. Almost invariably the nature of the Conclusion should be decided on in advance. One may not know how he is to open his speech, nor just what line of argument will be most advisable, until he has heard all that his opponent has to say; but one can usually know beforehand how he wishes to conclude,—what great thought or feeling he wishes to leave finally ringing in the ears of his audience. Unforeseen circumstances may, of course, upset one's plans, and make the proposed conclusion inappropriate; but

in nine cases out of ten there is little danger of this. When the speaker, therefore, observes that his time is about to expire, he should rapidly bring to a point the particular matter on which he is speaking, and should then pass over—even if much that he wished to say must be omitted—to that with which he wished to *end*. Otherwise his speech may be left hanging in the air.

The first object of a Conclusion should be to leave the hearers with a full understanding of what the line of argument has been, and how  
**Summaries.** it has established one's case. This may require a brief summary of the entire line of proof, if the proof has been somewhat long and complicated; or it may require only an emphatic restatement of the strongest arguments already advanced—those on which the speaker conceives his success chiefly to depend. The method and extent of these concluding restatements or summaries must depend on the exigencies of the particular debate. They are of small value as mere formalities, so that one need not take time at the close of a debate to say, "Let me now briefly summarize the ground over which we have gone," merely for the sake of appearing systematic. The point is, to rehearse and emphasize those arguments which the audience needs to have left ringing in their ears; and a watchful speaker can judge, in any particular case, which these arguments are.

One wishes not only to leave the audience clearly possessed of the conclusion of one's argument, but also in a proper state of mind, —well-disposed toward the whole side of the controversy which one represents, and willing to act upon the conclusions reached, if action is required. Something like an *application* of one's case to the immediate audience, then, will naturally follow the restatement of proof. But whether this application shall be direct and unimpassioned,—a simple effort to reach the will of the hearers through their reason,—or more elaborate and impassioned,—an effort to reach the will through the feelings,—must be decided for each particular debate. The character of the audience and the nature of the subject will determine how far any appeal to the emotions will be appropriate. A judge in a court of law will be likely to determine questions according to pure reason; a jury will be more likely to be moved by their feelings. In general, the more intellectual an audience the more suspicious it is likely to be of merely emotional appeals. And there is quite as much difference in subjects as in audiences. To attempt any considerable appeal to the emotions on a subject relating to the tariff or the currency, will be likely to be absurd; while other subjects, such as those relating to wars for liberty, are of course highly susceptible of emotional treatment. The safeguard

Persuasive-  
ness in the  
Conclusion.

of the speaker must be to avoid going any further than he can be sure of carrying his audience with him.

Some illustrations of different methods of stating a concluding application or appeal may make these suggestions somewhat more clear. The *Different kinds of Conclusions.* great speech of Lord Mansfield in the case of Evans, delivered in the House of Lords in 1767, is an example of a dispassionate, distinctly intellectual conclusion to an argument. The summary of the main points of the argument is merged with the parliamentary motion to affirm the judgment which Lord Mansfield had been defending.

“In the case before your Lordships, the defendant was by law incapable at the time of his pretended election; and it is my firm persuasion that he was chosen because he was incapable. If he had been capable, he had not been chosen, for they did not want him to serve the office. They chose him because, without a breach of the law, and a usurpation on the Crown, he could not serve the office. They chose him, that he might fall under the penalty of their by-law, made to serve a particular purpose; in opposition to which, and to avoid the fine thereby imposed, he hath pleaded a legal disability, grounded on two acts of Parliament. As I am of opinion that his plea is good, I conclude with moving your Lordships, That the judgment be affirmed.”

A still more striking case of this sort of con-

clusion is found in Daniel Webster's defense of the Kennistons. Here, although addressing the jury, the great lawyer was content to conclude his argument with a summary of his proofs and a direct application of them to the duty of the jury.

"From the time of the robbery to the arrest, five or six weeks, the defendants were engaged in their usual occupations. They are not found to have passed a dollar of money to anybody. They continued their ordinary habits of labor. No man saw money about them, nor any circumstance that might lead to a suspicion that they had money. Nothing occurred tending in any degree to excite suspicion against them. When arrested, and when all this array of evidence was brought against them, and when they could hope in nothing but their innocence, immunity was offered them again if they would confess. They were pressed, and urged, and allured, by every motive which could be set before them, to acknowledge their participation in the offence, and to bring out their accomplices. They steadily protested that they could confess nothing because they knew nothing. In defiance of all the discoveries made in their house, they have trusted to their innocence. On that, and on the candor and discernment of an enlightened jury, they still rely.

"If the jury are satisfied that there is the highest improbability that these persons could have had any previous knowledge of Goodridge, or been concerned in any previous concert to rob him; if their conduct that evening and the next day was marked by no circumstances of suspicion; if from that moment until

their arrest nothing appeared against them; if they neither passed money, nor are found to have had money; if the manner of the search of their house, and the circumstances attending it, excite strong suspicions of unfair and fraudulent practises; if, in the hour of their utmost peril, no promises of safety could draw from the defendants any confession affecting themselves or others, it will be for the jury to say whether they can pronounce them guilty."

Turn now to a conclusion of another sort, when Lord Chatham was addressing the House of Lords in his splendid protest against the inhumanities of some of the early British efforts to suppress the American Revolution. Here the appeal is not to a court, nor on a legal question, but to the House of Lords in its representative capacity and on a question of colonial policy and public justice.

"I call upon that right reverend bench, those holy ministers of the Gospel, and pious pastors of our Church—I conjure them to join in the holy work, and vindicate the religion of their God. I appeal to the wisdom and law of this learned bench, to defend and support the justice of their country. I call upon the Bishops to interpose the unsullied sanctity of their lawn; upon the learned Judges, to interpose the purity of their ermine, to save us from this pollution. I call upon the honor of your Lordships, to reverence the dignity of your ancestors and to maintain your own. I call upon the spirit and humanity of my country, to vindicate the national character. I invoke the genius



of the Constitution. From the tapestry that adorns these walls the immortal ancestor of this noble Lord frowns with indignation at the disgrace of his country. . . .

"I again call upon your Lordships, and the united powers of the state, to examine it thoroughly and decisively, and to stamp upon it an indelible stigma of the public abhorrence. And I again implore those holy prelates of our religion to do away these iniquities from among us! Let them perform a lustration; let them purify this House, and this country, from this sin.

"My Lords, I am old and weak, and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving vent to my eternal abhorrence of such preposterous and enormous principles."

We have now considered briefly the general structure of the finished argument as a whole. The detailed inner structure of the various main divisions is of no less importance, but it is difficult to do more than call at-  
Relation of  
Structure  
and Style.
tention to the problem as one to be solved according to the general laws of rhetoric. The problem of structure in an argument is one of peculiar importance, and, in a sense, of peculiar difficulty. The various parts, and their relation to one another, are to be made perfectly clear to the audience, and yet this is to be done without such an appearance of

formality and baldness as to make the argument seem like a mathematical demonstration. In a word, structure must be emphasized, and yet not to the sacrifice of literary form. The skeleton must be discernible, but it must be clothed in flesh. The difficulty here is a real one. In most arguments the structure is not clear enough, and the audience has no definite idea, at any particular moment, just what progress has been made. But when debaters realize this, study the subject of structure, and draw careful outlines or briefs of what they wish to say, they are very likely to go to the other extreme, and make a speech that is full of firsts, secondlies and thirdlies, of formal phrases like "Thus it will be seen," "I now proceed to another point," and the like, which destroy all artistic effect. Mathematics and art are, in fact, if not enemies, neighbors of such incompatible temperaments that it requires some skill to make them live together in peace.

It has already been said that the structure of the brief should be the basis of the structure of the finished argument. Ordinarily, too, **Paragraph Structure.** the paragraph structure of the brief will suggest the paragraph structure of the finished argument; and upon the paragraph structure of the latter a great part of its clearness and force will depend. If the paragraphs, then, follow one another according to the arrangement of the headings

in the outline or brief, the general orderliness of the argument is insured. But these paragraphs are of course not to be numbered or lettered as in a brief. They cannot even be made visible to the persons addressed; for it is of spoken, not of written argument that we are thinking, and a slight pause for the taking of breath, with perhaps a change of the pitch of the voice and a still slighter change of bodily posture, is all the speaker can provide to indicate transition in the argument. He can, however, by a careful use of the connective tissue of language, help to make his structure clear. He must not omit a single step in his line of argument, and expect the audience to supply it for themselves. He must not even omit the conjunctions, "hence," and "therefore," and "because," and all the rest, which serve to show just how two statements are related to each other. And if he wishes to be pleasing as well as clear, he must do this with variety, not marshalling his sentences in monotonous array like the statements in a brief, but letting them—so far as their mere verbal form is concerned—trip about in constantly changing fashion like the sentences of ordinary speech. The result, if he is successful, will be that one can listen to his argument as easily as to the conversation of a friend, and at the same time can follow its structure as easily as the demonstrations in a geometrical text-book.

The study of the *paragraph* is a whole subject in itself, and there is little time in this connection in which to take it up. But it is perhaps of even greater importance in argumentative work than in ordinary composition. The paragraphs in a speech, as in an essay, should each be a *unit*, the expression of one central idea; and it is even more important in a speech than in an essay that this central idea should be instantly and clearly understood. A reader may go back and read the paragraph over again, if he is not sure of its purpose on first reading, but a hearer cannot do this; he must catch the thought at once or never. For the accomplishment of this the beginning and the end of the paragraph are of chief importance; and two rules relating to these parts will be found, while not universally useful, of very wide significance. First, *Let the opening sentence of the paragraph indicate what its general subject is to be, and, if possible, what is its connection with the paragraph that has preceded.* Secondly, *Let the last sentence of the paragraph state in a summary form the main thought which the paragraph is intended to express.*

The effect of these rules in a speech is as marked as in a written discourse. In the latter the opening and closing sentences of the paragraph  
**Transitions.** are especially emphatic because they are conspicuous to the eye. In speech they must be made emphatic by the speaker's voice, and by the

pause which precedes and follows the paragraph. In other words, at each transition point in the argument the speaker will indicate by a change of tone and a pause that the point is one of transition; and the first sentence of the new division will indicate clearly what point the speaker wishes now to bring before the audience. At the end of the period he will restate the main thought of the division in a short, emphatic, summarizing sentence, which will leave no shadow of a doubt as to what it is that he has just been trying to declare.

In order to illustrate the ways in which a portion of an argument may develop from a group of headings in an outline, let us consider what might be done in developing a section of a brief on the subject of a law restricting immigration into this country.

Development  
of finished  
Argument  
illustrated.

*In the decision of this question, all interests save those of the United States are to be rejected.*

1. For if our interests and those of aliens are identical, the latter need not be considered.  
And if our interests and theirs conflict, Congress must prefer ours.
2. The government, like an individual, has the primary duty of self-preservation; and this measure is for that end.
3. The fact that America has a mission to perform on behalf of the races of the world can have no bearing on the action of Congress; for

Congress is not empowered to take action of a purely altruistic nature, even when such action would be consistent with home interests; how much less, therefore, when it is inconsistent with our own interests?

Moreover, the duty of the United States toward the world cannot be accomplished if the fundamental character of its institutions deteriorates; and it is for the prevention of such deterioration that the present bill is framed.

With this section of an outline as a basis for the corresponding part of the finished argument, a speaker might pursue one of two or three different methods. He might, in the first place, follow the form of his outline as closely as possible. The result would perhaps be somewhat as follows:

The Compact Style.

"It is true that all interests save those of the United States are to be thrown aside in the consideration of this question. This is so for three reasons. First: either our interests and those of aliens are identical, in matters affecting immigration, or they are not. If they are identical, the interests of aliens certainly need not be considered. If they conflict, Congress must certainly choose our interests to those of outsiders, remembering that it is the sworn duty of every legislator to represent his own country first of all. Secondly, the government, like individuals, has a certain right of self-preservation that takes precedence of everything

else; and it has already been shown that the restriction of immigration is an act which would operate in the interest of such self-preservation. Thirdly, it cannot be said that our country has certain duties to perform toward other races, duties which have been laid upon us by the special traits and special privileges which we possess; for Congress has no constitutional right to undertake measures of a purely altruistic character, for missionary purposes, even if they are not inconsistent with the interests of our own people. How much less, then, can it either pass laws or neglect to pass laws for the sake of profiting alien races, contrary to the pressing interests of the United States? Such interests are to be wholly rejected by a legislative body that exists for a particular purpose, namely, to fulfill the demands of its constituents. But suppose we do admit that the mission of the United States among the peoples of the world is to be taken into consideration, this mission cannot be performed if the fundamental character of our government or our citizenship deteriorates. In order, therefore, to carry out this very purpose of altruism, the integrity of our citizenship and form of government must be preserved; and our claim is, once more, that this cannot be done without the further restriction of immigration. Hence we see, since Congress must prefer American interests to those of aliens, since the government, like an individual, has the duty of self-preservation, and since the beneficent mission of America to the world is not a matter for our legislators to take into consideration,

that in the decision of this question all interests save those of the United States are to be rejected."

This is a very close transcription of the statements in the outline, and in a sense is entirely clear and orderly. Regarded, however, as a part of a speech in actual debate, it is a very poor production. It states the case baldly, and is utterly without elements aiming at persuasion or at the forcible pointing of arguments. Moreover, the phraseology is too compact and abstract—in other words, too far removed from the colloquial style—to be quickly understood by any audience. It would require thoughtful reading to bring out its real content.

One can imagine a speech which should have nearly all the merits which are wanting in the one just considered, and yet none of the merits which this one illustrated. The corresponding passage might run somewhat as follows:

"We are charged with thinking only of the selfish interests of the United States. And whose interests, let me ask, are we supposed to consider, when we are talking about a law that is being debated in the Congress of the United States? The interests of the Hot-tentot? of Patagonia? or of Spain, it may be! I tell you, sir, if the people of the United States do not consider their own interests for a while, and put a stop to the incoming elements that are cutting away the very foundations of our historic government and our democratic citizenship, there will be nobody so low as to



care to appeal to us to take an interest in him! It is very fine to talk of altruism, of the interests of others, but self-preservation is the first law of existence; altruism comes afterward. If Congress has to choose between the interests of a pack of Italians, or a ship-load of filthy Chinamen, and those of her own citizens, do you suppose they are going to hesitate, and, before they take action, make up their minds that they are not doing anything to hurt those refugees and fortune-hunters? Our opponents tell us that we have a mission to the whole world. I have been reading the newspapers a good many years, and I never heard of Congress passing a law entitled, 'An act to carry the blessings of free government to foreign peoples.' I never heard of their defeating a bill on the ground that it would injure the missionary interests of America. I hope they will not begin now. No, sir! if this bill for the restriction of immigration is defeated, let the gentlemen who vote against it, when they remember how the Chinaman in the West, and the Italians and Bohemians in the East, and the French-Canadians in the North, are cheapening wages and taking work from hungry American citizens,—let them pass a law for the encouragement of alien immigration, and let them entitle it, in Scripture language, 'An act to take the children's bread and give it to the dogs'!"

This is a type of debate which is well worth study. Anyone who has heard much public debate is familiar with the sort of speaker who has the gift of putting things in a vigorous and interesting way, even if it be at some expense of dignity and method.

The imaginary passage just cited really contained all, or nearly all, the arguments included in the one previously quoted. They were scattered about, however, without order or clearly progressive thought; so that upon a serious and intelligent hearer they would make little impression. On the other hand, this second passage was twice as interesting and forcible as the preceding one. The first speaker would probably have put his audience to sleep, in spite of his methodical style; the second would have sat down amid a burst of applause. The popular style of debate, therefore, is not to be despised, but should be studied in order to see if its merits can be imitated by one who avoids its defects.

Let us attempt to imagine a passage embody-  
The Com- promise. ing, not perfectly but approximately, the merits of both the styles already illustrated.

“We are charged with thinking only of the selfish interests of the United States. But is it altogether selfish and unreasonable to confine the discussion of this particular measure to a particular class of interests? It is not that the interests of others are always to be neglected. It is simply a question as to whether, when this bill for the restriction of immigration comes before our Congress, that body is justified in resting its decision solely on American interests. We believe it is.

“It will clear up the matter, perhaps, if we consider

that different interests must either harmonize or not harmonize. Now if the interests of Americans regarding the immigration question are identical with those of the Chinese, for example, or the Italians, there is surely no trouble. To satisfy our needs will satisfy theirs. If, on the other hand, our interests clash with theirs on this question, and there is presented to Congress the definite choice between passing a law which would benefit Americans, or of not passing it because it is opposed to the interests of aliens, what can Congress do? Its members cannot go home and say to their constituents, The law would have been to your advantage, but lo! the poor Chinaman! As a representative body, Congress can regard no interests as paramount to those of America. American interests alone, then, must determine the issue.

“But more than this. While governments, like individuals, may have other duties than purely selfish ones, they have also, like individuals, a primary right of self-protection and self-preservation. They have it, indeed, much more than individuals; for a man may think it his duty to sacrifice his life in the interests of others, but a government has no right to expose itself to disease or other danger, being itself the protector of thousands of individuals. If, therefore, a measure is urged as one of protection to the government, will you stay legislation, saying, ‘Wait! Before taking action on this, before protecting our people from invasions of armies perilous to our safety,—though they do not come with sword and spear,—pause and consider whether to do so will be for the best interests of alien peoples!’ America will reply by drawing the

protecting folds of her garments more closely about her, and saying proudly, My own children first!

“We must go a step further, to make our position perfectly clear. We have heard no little talk about the mission of America to other peoples, and the pity of interfering with this by Congressional legislation. It is true that America has, in a sense, a mission to other peoples. Yet the Constitution does not recognize it; the law does not recognize it; Congress could not recognize it to the extent of appropriating public money, for example, for spreading the blessings of liberty throughout the world. They could not do it even if to do so would be entirely consistent with American interests, simply because it is not the business of Congress to do that sort of thing. How much less, then, can Congress seek to give aid to aliens *at the expense* of our own people?

“But it is not necessary to remain on this purely selfish ground. From the very fact that America has a mission to the world, the pending bill should be passed. The fulfillment of such a mission is absolutely dependent upon the preservation, in all their purity, of those elements which make America a vision of Liberty enlightening the world. Destroy our pure democracy, shake the least of the pillars of self-government, make law less sacred, and liberty a more noisy but less certain thing,—and America’s mission is over. If her own banner is torn and her own garments stained, no need for her going on a crusade to enlighten the world. To speak more definitely, if the purity of our politics is destroyed, and the security of life, property,

education, citizenship, or family in our great cities is made uncertain, there is small use in bothering ourselves about setting an example for others. For the very end, then, of preserving that example which our fathers set up, we must protect our own borders, preserve our own citizenship, defend our own flag!

“We reaffirm, then, with no fear of laying ourselves open to the charge of narrowness or selfishness, that this measure is to be considered solely in the light of American interests. We do this first, because if there is a conflict between our interests and those of aliens, Congress has no choice but to give ours the right of way; secondly, because the measure is one looking to the protection of the republic, and that must always be of paramount interest to our law-makers; and thirdly, because even for the sake of other peoples, and the perpetuity of our mission and example, the purity of our citizenship and our institutions must be preserved.”

This imaginary passage is in no sense offered as a general model for debaters. It may be questioned whether the particular line of proof involved would require any such careful demonstration before an ordinary American audience. A somewhat obvious proposition was chosen, in order that attention might be fixed on the form, not the substance, of the argument. The passage is intended to illustrate one point only: the development of the finished argument from the outline. The third passage, like the first, follows the structure of the outline closely and clearly; but it also, like the

second, adopts the style of the platform and attempts to be sufficiently vigorous and interesting to hold the attention. The increased length of this third passage, when compared with the other two, seems to require comment. It illustrates the fact, which will be brought out more clearly a little later, that the language of spoken discourse must be more diffuse and less compact than that of written discourse. The passage just cited was revised with the most scrupulous care, in order to reduce its length if possible; but it seemed that not a sentence could be safely omitted, if all the proof suggested by the outline on page 155 were to be made both clear and interesting to those addressed. It takes time to develop a line of proof before an audience so as to make the structure clear and the substance impressive.

It must by this time be evident how important, in the make-up of a finished argument, are the general laws of style. It is common for rhetoricians to classify the qualities of a good style under the three heads of Clearness, Force, and Elegance. All these qualities are to be sought by the debater, and the classification will serve as well as any for the few further remarks that can now be made on the subject of style in debate.

It requires no comment to show that clearness is in every sense the first requisite of an argument. If

the line of proof is not made clear, it is impossible to secure conviction. The best aid toward clearness in the finished argument, <sup>Clearness.</sup> namely, the construction of it on the basis of an outline or brief previously prepared, has already been fully considered. It has been remarked, too, that the style of the oral debater must be even more painstakingly clear than that of the writer, since the audience has no chance to study his sentences at their leisure. The debater must keep in mind, then, the peculiarities of *spoken* discourse. He must remember that a sentence of some length and intricacy, with a half dozen modifying clauses, while it might be perfectly intelligible in print, will be hard to follow by the ear. Short, simply constructed sentences are great aids to clearness. So also are short summaries, compact restatements of what has just been said,—restatements such as we have seen are especially useful at the ends of paragraphs and of main divisions of the argument. It may be set down as a general law that it is not only necessary to state facts with especial clearness, in addressing an audience in oral debate, but also necessary to state the facts over and over again. So it happens that a discourse which would be intolerably wordy in print, and which could be easily reduced to two-thirds its size for publication, will be well adapted to a popular audience. It is related of Patrick Henry that in trying a celebrated case be-

fore a jury, he repeated his closing argument, in slightly varying form, twelve times over,—once, he said, for every man on the jury. Any speaker of experience knows that when he has simply stated a thought to his audience, even though it be expressed with perfect clearness, not a third of the audience has, as we say, “taken it in.” He must enlarge upon it, and, in effect, repeat it perhaps a half dozen times.

The debater, then, for the sake of clearness, must keep to a certain diffuseness of style which belongs to spoken discourse, as contrasted with **Economy of Time.** the more compact style of written discourse. But a difficulty arises at this point. Not only must one be constantly on guard against letting this diffuseness become intolerably tiresome, but one has to consider the matter of economy of time. Most debaters find themselves obliged to speak within definite limits of time; and even if their speeches are not cut off in their prime by the gavel of a presiding officer, they are bound by limits of courtesy and of prudence. How, then, shall one be diffuse for the sake of clearness, and compact for the sake of brevity? It is the paradox of all public speakers, and how few there are that find the solution! In particular, many debates are lost simply for lack of time. The debater begins a ten or fifteen minutes’ speech as though he had an evening before him, and is just getting well on



in his introduction when he is warned that he has but a minute more. If he could only bid time stand still, like Joshua at Ajalon, all would be well. As it is, the body of his argument is never heard.

The debater, then, must have a definite understanding of the amount of time before him, and must order the divisions of his speech accordingly. He must beware of providing an introduction suitable for an hour's speech, when his whole time is fifteen minutes. He must in all cases be watchful that the introduction does not occupy disproportionate space. He must see that the critical points in the proof have the right of way in the matter of time, so that if anything is left out it will be matters of less significance. And if he discovers that his time is too short for his material, he must study how to put the latter into the briefest effective form. There is such a thing as a style that is rapid and condensed, and yet is suited to hold the attention of an audience. And it is possible to strike out many sentences from the first draft of an argument, and yet not lose what is essential to the purpose in hand.

To pack one's materials into small space, for presentation in a brief but effective speech, is a matter involving no little skill. Many fine debaters owe their reputation to their Art of Condensation. ability in this single direction. It is possible to state one's evidence in great detail, giving all the

words of witnesses and all the minutiae of the facts involved; and it is also possible to select just the points essential to the proof, and state nothing beside. One may tell a story at length, so that it becomes a sort of digression from the body of one's speech; or one may seize upon the phrase that will give the point of it and yet occupy very little time.\* The first method is that of the speaker with abundant time at his disposal; the second is that of the speaker who must do a great deal in a short speech.

This matter has been referred to in an earlier chapter, in connection with the citation of authorities; and it is in such citation that the ability to condense is especially important. A speaker in recent debate took nearly half the time allowed for one of his speeches, in reading an extended quotation from a law-book. The audience was not interested in the details of the opinion cited, and it would have been possible to put

\* Compare, for example, the incident related on page 179, below. Told in a leisurely manner, it would open: "A gentleman who was traveling from B—— to A—— offered a ticket reading 'From A—— to B——.' It was refused by the conductor, and the passenger, declining to pay his fare, was put off the train. He brought suit for damages," etc. Since, however, it is desired to present the central matter of the anecdote as quickly as possible, it serves the purpose quite as well, or better, to begin rapidly: "There was a suit for damages brought against a railroad company which had refused a ticket reading 'From A—— to B——,' because the passenger was traveling from B—— to A——."

the gist of it in two sentences. Often, indeed, one may find a single sentence in the passage to be cited which will convey compactly the import of the whole. Debaters who have occasion, therefore, to make use of such authorities as the decisions of courts, should study the problem of summarizing such decisions rapidly. A sense of proportion must govern the extent to which the summarizing process will be carried. If a debater has an hour in which to speak on a constitutional question, he may think it well to read *verbatim* the passages in the Constitution bearing on the pending question, and may also quote at some length from the text of Acts of Congress and judicial decisions. But if he has but ten or fifteen minutes, his time must be largely saved for argument, and the fundamental facts must be stated only in outline. Thus, in a discussion of the constitutionality of an income tax, a speaker stated the law in the case as follows:

“When we look at the Constitution, as literally set down and as interpreted by the highest judicial authority, in order to discover what sort of a tax an income tax may be, and how it can be levied by Congress, we find the matter is not so difficult as some expressions of our opponents would lead us to suppose.

“The provisions of the Constitution relating to taxation by the Federal government, stated in a word, are these: Direct taxes (whatever they are), are to be ap-

portioned—like Representatives in Congress—among the States according to population as indicated by the census. Other taxes (presumably indirect), called ‘duties, imposts, and excises,’ shall be uniform throughout the United States, but may, of course, be levied by Congress directly.

“These provisions of the Constitution have come before the Supreme Court for interpretation almost from the time of the adoption of the Constitution to the present; and while the Court has always avoided the necessity of clearly defining what is meant by ‘direct’ taxes and taxes of the contrasted class, its decisions have all been practically based on one assumption. That assumption is that ‘direct taxes’ are limited to capitation taxes and taxes on land. This was first suggested in the decision of 1796, in the case of *Hilton v. U. S.*, when a tax on carriages, levied directly by Congress, was sustained on the ground that it was not a direct tax. Later the question recurred in the case of *Veazie Bank v. Fenno*. In this case the chief question was the right of Congress to tax the notes of State banks; incidentally it was held that such a tax, being allowed, is not direct, and certain expressions of the Chief Justice indicate that it was the disposition of the Court to reserve the term ‘direct tax’ to the two classes already mentioned.

“In like manner, in the case of the *Pacific Insurance Co. v. Soule*, it was held that a tax on the incomes of insurance companies is not a direct tax; and again, in 1874, in *Scholey v. Rew*, a tax on succession to real estate was held not to be direct. In all these cases the

Court, while avoiding—as I have said—explicit definition, referred with apparent agreement to the dicta of the earlier decisions. Thus the term ‘direct tax’ has been limited by the Court, through a process of exclusion, to mean *land* taxes and *capitation* taxes,—in other words, to taxes such as have never yet been levied by the Federal government. And the final touch was given to this process of exclusion by the decision in the case of *Springer v. U. S.*, in which the income tax of 1864, levied directly upon incomes of citizens of the United States,—including, of course, even the incomes derived from land,—was held to be indirect. Thus a consistent line of interpretative decisions has made clear the meaning of phrases which, outside the Constitution, might be as darkly ambiguous as the other side would have us believe.”

This passage is not given as an illustration of argument, but simply to illustrate the process of compression as applied to the citation of authorities. Hundreds of pages of Supreme Court decisions were read, and the gist of them packed into less than four hundred words, so as to serve the purpose of the speaker. That purpose was to support the Income Tax of 1894. If it had been different,—if he had wished to attack the constitutionality of the law,—he would doubtless have selected and condensed his material in a different fashion.

Such condensation, then, is nearly always possible. But to save time in this way while speaking

requires the spending of time in preparation. It takes longer to prepare a short speech than to prepare a long one, on almost any subject. The man who knows his subject from top to bottom can glance through it and seize the essentials for rapid presentation, "striking," as John Bright once said of his own method as a debater, "from headland to headland."

A striking example of the relative values of long and short arguments is given by the following incident that occurred in a Philadelphia court. A complicated case regarding the tenure of land was pending, and was suddenly called up for trial, some weeks before the counsel on one side had expected it. This side was represented by two lawyers, one of whom had gathered most of the material for argument, the other of whom was to make the principal argument in court. The latter said to his colleague, the junior counsel, who was a brilliant and unusually ready speaker: "The case is called for this afternoon. I cannot be ready to speak until to-morrow. If you can occupy the time till court adjourns to-day, I will be on hand at nine in the morning." The young lawyer went into court and began to speak. He brought with him hundreds of pages of records relating to the case, and read them as leisurely as the court would allow. It seemed to him that time had never passed so slowly, but he talked on and on, perceiving,—as he told

his friends afterward,—that everyone in the courtroom was growing more and more impatient of him and his case. The judge tried to hurry him, but he declined to be hurried. At length the time for adjournment came, and he announced that his colleague would finish the argument in the morning. So far as his afternoon's speech was concerned, not an inch of progress had been made in winning the case. Meantime his colleague, one of the most distinguished members of the bar, went home after a hard day's work, prepared his argument in the pending case during six hours of the night, went into court next morning, and in twenty minutes made the speech that he had been six hours preparing. That speech won the case.

We come now from the quality of Clearness to that of Force. Many persons who would otherwise be successful debaters make a failure at just this point. They gather and arrange <sup>Force.</sup> their material with skill, but they fail to make it interesting or to drive it home. The general judgment of those who have heard many debates,—whether in debating societies, conventions of citizens, legislative bodies, or courts of law,—is that, where there is no unusual excitement present, the debating is abominably dull. And this is not the fault of the subjects discussed, for everyone knows that certain speakers are always listened to with interest and even entertainment, whether they

Speak on popular themes or on the most technical matters in the world. There are a half dozen men in the United States Senate who are sure of having crowded galleries to hear them, even if they speak on some abstruse question of tariff or currency, or on some private pension bill. Such men should be carefully studied by all who wish to become successful debaters. They have the quality of forcefulness, which carries what they have to say into the ears of their audience, and even draws hearers to them, eager to listen.

A certain degree of force is secured by the mere quality of clearness, combined with earnestness. If a statement is made in a manner to be at once understood, and if it is made in a manner that shows the speaker thoroughly believes it and is eager to give it to others, there must be a responsive spark struck off in the mind of the hearer. To develop an enthusiasm for one's subject, then, an intense desire to convince and persuade others of the proposition in hand, will usually result in a forcible style. One's sentences will be short and vigorous, and will be driven home by the earnestness that is behind them.

Apart from this, perhaps the element of style that contributes most to the quality of force is that of *concreteness*. It is a curious fact that a statement couched in general terms will almost never be as effective as when stated in terms



of a specific, concrete case. One who talks wholly of general laws will soon make any audience drowsy; while concrete cases will at least keep them awake. The debater should study his case with this in mind, and decide before he makes his speech what specific cases he can make use of, to add force to his theories. It may be only a question of the choice of words,—the substitution of a particular term for a more general one, or a figurative for a literal statement. Orators, instead of saying that the British empire extends over all quarters of the globe, are in the habit of saying—for greater forcefulness,—that the sun never sets on the English flag. Instead of speaking of alien races, a wise debater will say “Chinese and Italians” when he can. Instead of talking of agricultural conditions in general, he will mention potatoes and pigs,—the homelier the concrete cases may be, the better, for they will bring distinct and lively images to the hearer’s mind. It is particularly interesting to see what a difference this concrete method makes in the citation of statistics. Statistics in debate are in danger of forming a perfect desert of dullness. Yet they need not do so in skilled hands. In large numbers they cannot be made to appeal to the ear, but must be seen in the form of tables. “Statistics,” said a witty professor, “are like children: they should be seen and not heard.” In debate, therefore, one should never

read a whole table of figures, but should select the point essential to the argument, and put that in a brief and interesting form. There is all the difference in the world between this statement: "The exportations of the United States to France in 1898 amounted to \$25,542,673; while the exportations of France to America amounted to \$12,476,316"—and this: "For every dollar that went over seas to France last year, two dollars came back." In dealing with statistics in general debate one should nearly always discard small numbers and fractions; they blur the picture, which is to be made as vivid as possible. Rhetorically speaking, ten thousand dollars is a larger sum than \$10,142.67. In like manner, images of individuals loom up larger in the imagination than those of classes. A speaker during the time of the Chicago riots of 1894 moved his audience to enthusiasm by declaring: "If necessary, every regiment in the United States army must be called out, that the letter dropped by the girl Jenny, at some country post-office back in Maine, may go on its way to her lover in San Francisco, without a finger being raised to stop its passage!"

In the same way any departure from commonplace forms of speech, if it is not obviously introduced for artificial effect, will add to the force of argument. A bit of irony, if not too malicious or savage in style, will wake an audi-

**Figures of  
Speech.**

ence to fresher appreciation. The form of antithesis, in which opposing ideas are set over against each other by way of more vivid contrast, will do the same. A recent debater, borrowing a hint from a remark of Macaulay's, introduced the following passage into a political attack on the administration:

"Macaulay says somewhere, in speaking of King Charles the First: 'We charge him with having broken his coronation oath; and we are told that he kept his marriage vow! We accuse him of having given up his people to merciless inflictions; and the defence is, that he took his little son on his knee and kissed him! We censure him for having violated the articles of the Petition of Right; and we are informed that he was accustomed to hear prayers at six o'clock in the morning!' So we may say in regard to the defenders of the President. When we charge that he has used his high office for political ends, debauched the civil service, discarded the very reforms pledged by the platform on which he was elected, and given over the army to the plundering of corruptionists, what is the answer? that he is a man of charming disposition in the family circle, that his Thanksgiving proclamations breathe forth piety in every line, and that he scrupulously avoids traveling on the Sabbath day!"

This brings us to the matter of the use of illustrations in debate. We have seen, in the Use of Illustrations. chapter on Proof, that illustrations are not arguments, and should never be used as if they

were. They may, however, make argument clear, interesting, and forcible. Their quality of concreteness serves, as it always does, to keep the audience awake, and to arouse distinct images in the mind. If there is anything of wit about them, and it is felt to be appropriate and not irrelevant, the effect is all the better. Thus even an amusing story may be introduced into debate with good results. But concerning this much caution must be urged. To introduce a story merely because it is funny, to take precious time in the telling of it when every moment is needed for argument, or to make a far-fetched attempt to apply it to the immediate controversy when it is not to the point,—any of these things will produce an effect of weakness which one cannot afford to risk. Only when it is clearly illustrative of the matter in hand,—and not then if it will take long in the telling,—is an anecdote to be introduced into debate.

Two or three examples of successful illustrations in debate may make these principles more clear. When an unjust bill was introduced into the House of Commons in 1741, and was defended on the ground that it was the only remedy proposed for existing evils, Mr. Pitt replied to its sponsors in this fashion:

“The honorable gentlemen say no other remedy has been proposed. . . Suppose no other remedy should be offered; to tell us we must take this, be-

cause no other remedy can be thought of, is the same with a physician's telling his patient, 'Sir, there is no known remedy for your distemper, therefore you shall take poison—I'll cram it down your throat.' I do not know how the nation may treat its physicians; but I am sure if my physician told me so, I should order my servants to turn him out of doors."

Again, in an American court a suit for damages was brought against a railroad company which had refused a ticket reading "From A—— to B——," on the ground that the passenger was traveling from B—— to A——. The attorney for the railroad argued that the passenger was really claiming a different service from that he had paid for. "He paid for passage from A—— to B——," he said, "and yet demands passage from B—— to A——. He might as well buy a barrel of potatoes at a grocery, and then sue the grocer on the ground that he did not deliver apples instead." When the attorney for the plaintiff had opportunity to reply, he said: "The illustration drawn from the barrel of apples and the barrel of potatoes seems to be an unfortunate one for my friend on the other side. The present case would be better illustrated by a grocer who, having sold a customer a barrel of apples, should insist that he should begin at the top and eat down, whereas the customer had a preference for beginning at the bottom and eating up!" Here the illustration was an admirable one, for

it not only turned the laugh against the speaker's opponent, but served *at the same time* to make clear the very point of the argument which was being developed.

A similar example is found in the fable at the opening of the speech on the Venezuelan Message of President Cleveland, quoted in the Appendix. In this case the fable was of course constructed for

the purpose of illustrating the case in dispute, and this was done so carefully that every phrase in the story had its significance for the Venezuelan question, the remarks of the thief being intended to cover the most important arguments on the opposite side of the debate. So the story, while told in the most condensed manner possible, did not even take from the time of argument the time required in its telling; for it was developing the argument at the very time that it was interesting the audience and preparing them for the more weighty material that followed. Such illustrations are serviceable in more than one way. But what shall be said of a speaker in an important debate, who took nearly half his time in telling the story (amusing in itself) of a man who was left hanging in the air through an accident that occurred while he was climbing a tree,—the point being that the opponents of the speaker had been left in a similar position by their unsuccessful arguments? Such a story may well

Legitimate  
and Illegiti-  
mate Illus-  
trations.

be called *question-begging*. It depended for its effectiveness on the possibility that the audience were all convinced that the speaker had triumphed over his opponents in argument; and it contributed nothing to the argument save a discourteous side-thrust at the previous speaker. Debaters who use illustrations after this manner deserve nothing better than defeat.

The forcible debater, then, is one who is determined that his audience shall listen to him, and that his arguments shall be *driven home*. He will not go out of his way to search for wit, for opportune repartee, for illustration or anecdote, but he will use all such aids if they come appropriately to his hand. He will have such earnestness that his audience cannot help feeling the contagion of it. He will reach out after the most homely facts that belong to his subject, in order to bring images of concrete things before the minds of his hearers. He will select the great essentials of his argument, and emphasize them so that no one can go away forgetting them. He will make use of climax as he has opportunity, and see that the ends of his paragraphs, of his main divisions, and of his speech as a whole, are the strongest parts of all.

We come now, finally, to the quality of Elegance. The word is an unsatisfactory one, for it suggests to many persons a quality which many arguments would do quite as well without. As rhetoricians

understand it, however, it means nothing inconsistent with simplicity, directness, or force. **Elegance.** It implies the choice of the right word in the right place, the observance of the laws of unity and proportion, and the almost indefinable atmosphere of good taste and dignity which should characterize every form of discourse. Since it is related to debate, for the most part, in no peculiar way, we need give it only very brief consideration here.

It is perhaps as an aid to persuasiveness that the quality of elegance is chiefly useful in argument. **Persuasiveness.** One may convince another even while giving an impression of violence or vulgarity, but in order to *persuade* some personal sympathy should be established, and the qualities of dignity, good taste, and ease have much to do with this. Persuasiveness depends, too, on the adaptability of the speaker to the circumstances of the debate and the audience addressed. The manner and method suited to one sort of hearers will be quite out of place with those of another. Enough has already been said to indicate that the attitude of friendliness on the part of the debater, toward those he is addressing, is one of the first essentials to success. *He must say nothing without his audience in mind.* He must try to enter into their feelings, and mingle his with theirs. If they are unfriendly, he must seek a common ground from which



they and he can make a start toward investigation of the question in hand. If they show any disposition to go with him, he must be ready to meet them half way. Yet some speakers, if one might judge from their style and manner, direct their remarks into the air, or would be as well content to deliver them as a monologue within their own room. What wonder that they cannot persuade? The secret of persuasive power seems to lie, first, in getting a personal hold on one's audience, and then in finding out by what motive they may be moved. If it be nothing better than self-interest, well. If it be—as it almost always will—through their higher selves, their principles, aspirations, loves and venerations, better still. All this will have its effect on the style of the adaptable debater. His language will be appropriate to himself, to his subject, to the circumstances of the discussion, and to the audience. It will have power over the audience, to hold them rigidly to processes of reason, when the speaker wills, and to arouse their feelings and move their passions, when it is that that he wills. Used in this way, human speech has almost magic powers. It not only guides the reason, but awakens memories, starts floods of old associations, stirs the passions, and moves the will.

This brings us to a concluding thought,—the *artistic* quality which may properly pervade an

argument, as well as any other form of discourse. The debater should strive to make his speech a work of art in its own sphere. A work of art must have, first of all, *unity*; and no argument is satisfying without a dominant idea. It must have, in the second place, *proportion*; and we have seen how this quality is important in debate as a regulating principle in the selection and emphasis of one's material. In the third place, a work of art must have *continuity* and coherence; this quality will preserve the argument from the scrappy, scattering effect which so many debates produce. In the fourth place, it must have some element of *general truth*,—something beyond merely temporary or local interest,—which will dignify it, elevate the thought of those studying it, and give it a certain permanent significance. A speech embodying these qualities, if it is preserved by some chance beyond the time when first delivered, will still have the charm which the work of all great orators holds, after the original circumstances of its utterance have been forgotten.

Now it may be admitted that, whereas every argument may and should be characterized by the first three of these qualities of a work of art, it is too much to ask that the fourth quality shall be present in every debate. There are some subjects, we have seen, dealing with matters of a slight or temporary character, and without

appeal to any high principles or deep feelings, in the discussion of which it would be absurd to try to introduce the element of permanent significance or broad general truth. Yet these subjects are, on the whole, rare in the experience of debaters. It is not often that a disputed subject is without connection with some principle, some general truth, some high thought or deep feeling, which will—if one only looks for it—illuminate the dry details of the discussion. Great debaters love to lead their audiences to these elevated points of view. Said a debater of experience and success: "I never like to close a speech on a question of any importance without showing, if I can, some deeper significance in the question than lies on the surface, and making the audience see that the discussion has been worth while wholly apart from the temporary circumstances that gave rise to it." This is why speakers have a fondness for concluding an address with a bit of poetry or other imaginative literature; for it is precisely the quality of poetry to illuminate small things by showing the elements of general truth and permanent significance that lie behind them. In unskillful hands such attempts are in danger of being absurd. An impassioned peroration, or a sudden flight of poetry, tacked on to a commonplace speech as though one felt the necessity of adding something of the sort before sitting down, is of course nothing less than ridiculous. If

there is any high thought or deep feeling in the subject, the speaker must lead his hearers to it gradually, and not affect any feeling which they cannot be prepared to share. It may not be possible to introduce any element of feeling whatever. But one can nearly always ask himself, What, after all, makes my argument worth while? What thought or purpose animates it which I should be glad to have handed down in my name to another generation? For while subjects change superficially from year to year, Demosthenes, Cicero, Pitt, Patrick Henry, Wendell Phillips, and Victor Hugo really spoke on the same themes,—the same great ideas,—and the torch of the debater is passed on from hand to hand.

## VIII.

### THE SPOKEN DEBATE.

WE have now followed the progress of the debater's work up to the point of the actual making of his speech or speeches. He has decided just what he wants to say, and just how he wants to say it, in so far as this can be done before the actual exigencies of debate are upon him. Some of his most important problems are still to be solved.

One of these problems we have temporarily ignored or avoided, in what has been said in the preceding chapter. We have assumed, for the sake of convenience, that the speech could be written down in advance of its delivery, and that the choice and arrangement of words could be made at that time and accurately followed in the spoken debate. As a matter of fact, however, we know that this cannot be done. Whatever we may think of public speaking of other sorts, it is absolutely destructive of debate to be bound by what has been prepared. And apart from the fact that one must be ready for all sorts of unforeseen emergencies, one cannot be sure of saying just what he has decided upon in advance. The peculiarities of a speaker's own mind and

memory are quite as uncertain, oftentimes, as the exigencies of debate.

This brings us at once to the problem of the relation of written to spoken language, of the speech prepared to the speech delivered, and of the use of notes in public speaking. In all these matters so much depends upon the ability and experience of the particular speaker, that it is impossible to say anything by way of guidance beyond the most general suggestions. It may be agreed at once, however, that a written speech, read from the manuscript, is generally unsuited to the uses of debate. There is but one sort of speech less deserving of success, and that is one written in advance and delivered from memory, word for word. Perhaps not one speaker in a hundred can deliver a memorized speech with perfect naturalness of manner, or can memorize a speech from beginning to end and yet hold himself ready to make such changes as occasion may demand. For most persons it will be better to read from manuscript directly, and lay it aside when necessary, than to seek to conceal the want of extemporaneousness by the transparent device of memorization.

Such being the case, shall one give up all idea of writing out in advance his arguments for public debate? By no means. There are many reasons why a speech should be written down at the outset, even if the manuscript is never

**Advantages  
of Writing.**

used at all. One never knows just what he has to say until it is written down. Ideas often seem to flow from the point of the pen, and arrange themselves on paper as they would never do in one's mind. Certainly one never knows *how much* he has to say until it is written down, and for a debater this is an important point. Again, all those matters relating to style, which we were considering in the last chapter, can be considered and worked out at one's leisure, with pen and paper at hand, and not left to the haste and excitement of the public assembly. It does not follow that the work of deciding them will be wasted because the written speech is not delivered without change. Finally, the writing out of material is a great aid to the memory, as all students know who have taken lecture notes or made written analyses of material for examinations; and the ideas of the speaker will be much more likely to occur to him in the orderly fashion in which he has planned them, if he has written them down in that order. To write a thing, word for word and letter by letter, is to wear a path in one's brain which it is not easy to efface.

What shall be done, then, with this argument when once carefully written out? This the individual debater must answer for himself. <sup>Preparation</sup> Perhaps he may destroy it, and feel that <sup>for Delivery.</sup> the mere act of writing it has prepared him for his

public speech. Perhaps he will read it over once or twice, in order to see how it sounds and how much time it takes, and let it go at that. Perhaps, again, he will study it over and over again, until he has almost memorized it by familiarity, though not by rote. All this will depend, of course, upon the degree to which the speaker trusts himself to say what he wants to say when on his feet, and the extent to which he feels that he must leave the precise character of his remarks to be determined by the state of the discussion at the time he enters it. There is always a conflict here between accuracy and exactness, on the one hand, and freedom and fluency on the other. There are debates in which every word must be measured and weighed before it is uttered, and others in which the enthusiasm and the rapid thinking belonging to the heat of the discussion can be trusted to take care of the words. In the one case, the debater should bring his material as nearly as possible to the point of exact preparation, without mechanical memorization; in the other he will take with him to the platform or bar nothing but a knowledge of his plan, and his material in the rough.

The following plan proves useful to many debaters. They first write out their argument in full, on the basis of the preliminary outline. This argument is carefully timed, and must then usually be condensed in order to bring it within the re-



quired limits. All matters of phrasing and illustration are as carefully corrected and polished as though the speech were to be read from the manuscript. Then a new outline is made, drawn from the full argument as written. This outline will differ somewhat from the original, for new material or improved arrangement will have been suggested in the writing out of the argument. If the debater is sure of his memory, he is now ready for his public speech. If, however, he fears that he will not be able to say just what he has decided upon saying, he will give some further study to his manuscript, reading over the full argument until it is entirely familiar, and then studying his outline to see whether its headings suggest to him what he wishes to say under each one. The last step will be to make sure that he is familiar with the outline itself, so that he will not lose himself between one division of his speech and the next. Unless he is confident through experience, he will do well to prepare a condensed copy of his outline on a card, and carry it in his pocket to the place of debate. He should not expect to use it, or even to hold it in his hand as an advertisement of his insecurity to the audience; but it will be a comfort to know that it is at hand in case of need.

The principle governing the question of the use of notes is simply that nothing must interfere with the natural relations of speaker and audience. It

is natural for one man to talk to another; but it is not natural for one either to read or recite his own thoughts to another. On the other hand, it is quite natural to read aloud the thoughts of another writer; and in debate, when a quotation of any length is to be introduced, such as the citation of an authority or the written testimony of a witness, it is more natural and reasonable to read directly from book or paper than to attempt to quote from memory. In such cases, the very presence of book or document is an element of strength; but the ideas of the speaker himself are to derive their strength from his presence and utterance.

It may be asked whether the careful study of a written argument and of an outline, as here suggested, is not in a sense a violation of the idea of extemporization? In a sense, of course, it may be so regarded; but the point is that the study of the written argument should never reach the point of mechanical memorization. It may reach the point where the speaker knows just how many paragraphs his speech will contain, and what the general order of sentences may be in each paragraph; or, when certain ideas have to be expressed very accurately or pointedly, he may even be practically certain as to what words he will use in particular places. But he will use the same words that he wrote down not

Use of Notes.  
  
Degree of  
Extempor-  
ization.

because he has learned them so thoroughly as to be able to recite them, but because, having spent no little thought on the best method of expressing certain ideas, *when those ideas recur to his mind the chosen words will recur also as the best form in which to utter them.*

The practical character of this sort of preparation is illustrated by an incident that Mr. Holyoake tells in his book on "Public Speaking and Debate":

"John Arthur Roebuck was the most mathematical speaker in Parliament in his time. He knew that the shortest distance between one point and another was a straight line, and he took it. Sitting at his table one day, he told me what he was going to say at Salisbury, where, at the Bishop's request, he was to deliver prizes to students. A fortnight later I read a report of his speech in the *Times*, which, so far as I remembered, was word for word what he had said to me. The reason was that the words of a perfect statement are not changeable. If any term can be changed for the better it means that a wrong word has been used. Thus, to a trained mind, understanding is in place of memory. The chosen words recur to the speaker because they are inevitable; none others will express the sense intended."

The debater who has prepared himself in this way will never be bound to the words previously chosen, so as to feel embarrassed if different ones

fall from his tongue; nor will his speech move on in a predetermined flow of language, without adapting itself spontaneously to the need of the particular moment. Up to this point the careful preparation of a speech may be advantageous, especially if the speaker is inexperienced, or if his argument is to come at the opening of debate, when he can determine in advance what should be said, or if he must be sure of occupying a definitely limited period of time. But the debater, no matter how timid and inexperienced, should guard carefully against becoming a slave to the speech that he has written down, or even to the outline that he has brought with him as a safeguard. He can never gain fluency and confidence without trusting himself. It is better to make a dozen failures in the attempt to be genuinely extemporaneous, than to educate one's self to the use of crutches. The dangers of extempore speaking, imposing as they are, are not so great as those of memoriter speaking. As soon as a speech is finally committed to memory, one loses the power of uttering it spontaneously. The mind, too, is liable to play strange tricks, and run off on a line of thought by itself, trusting to the memory to carry on the speaking. Then, if the memory suddenly weakens in its mechanical performance of duty, everything is lost, and there is small chance of recovery. The way to avoid this—to put the

matter in terms of psychology—is, never to learn a speech so thoroughly as to turn it over to the lower centers of nervous action, the centers which act of themselves without high cerebral command. So long as the speaker is choosing for himself at each moment just what words to use at that moment, his speech will affect the audience as a fresh, real and spontaneous utterance.

The precise words to be used in debate, then, must usually be left to the moment of speaking, not only in order to be easily changed at the will of the speaker, but in order to <sup>Fluency.</sup> give an easy and natural style. The assurance that the right word will be at hand when needed is of course a matter of experience. To acquire fluency a speaker should try always to use the best word for his purpose, even in common conversation or when talking to himself. He should read the works of great writers and speakers, and when he meets a new word, if it seems a good one, should store it away for the first opportunity he may have of putting it to service. He should talk as much as his conscience will permit, not only in company but alone, not being frightened by the common opinion that to talk to one's self is a symptom of insanity. Perhaps the most effective single sort of practice in fluency is that already suggested in connection with the preparation of a speech: to stand up as though to speak to an imaginary au-

dience, and attempt to reproduce the substance of what has been written down, in words fitted to the purpose but extemporaneously chosen. When one comes to a point where a fitting word does not suggest itself, one may say something—anything, for the time being, as one would do before an audience in such a case; but afterward the point should be taken up again and the right word determined. It is surprising, when one has once determined upon the right words and phrases for a certain number of occasions, how many purposes they will seem to serve. Gradually, then, one's ready vocabulary will grow; and the time may come when it may be said of the speaker, in small measure, what Mr. Holyoake says of Gladstone:

“With Mr. Gladstone it is as though he took upon the platform with him vast piles of the English language, from which he takes, with a swift hand, whatever he requires for the purpose of the moment; words of strength, or beauty, or brightness—of light, or shade, or force, until each passage is perfect. When a sentence is begun, you cannot always foresee how Mr. Gladstone will end it. But the great artist never fails. His eye sees all the while the fitting word lying by his side, and he dashes it in with the spontaneity of a master.”

One final word as to the relation of the written and spoken speech. We have seen that the style of written discourse is more compact and less dif-

fuse than that of spoken language. Unless, therefore, the debater writes with unusual and unnecessary diffuseness, his written work <sup>Expansion of Speech.</sup> will naturally expand as it becomes freer and more conversational in oral utterance. For this reason, as well as from the fact that space must be left for material suggested at the moment of speaking, the prepared argument should never be so long as to occupy, in its written form, the full time allowed for speaking. Otherwise the end of it may never be heard.

What, it may be asked at this point, of preparation for rapid rebuttal in debate? This, again, is so much a matter of individual ability <sup>Preparation for Rebuttal.</sup> that it is impossible to offer anything more than general suggestions. The ability to analyze, recapitulate, and refute the arguments of an opponent rapidly, when there is little time for reflection, may be regarded as a sort of inspiration, which it is almost useless to try either to analyze or teach. Nevertheless, granted some natural aptitude for it, it may be remarkably strengthened by practice. To those with little of such natural aptitude for rapid thinking on their feet, this consolation may be offered: that good rebuttal in debate is not by any means so largely a matter of rapid, extempore thinking, as is very commonly supposed. Observation shows that, even when the debater on one side must follow his opponent with-

out opportunity for reflection on the arguments of the latter, the occasions are rare on which the opponent will be found to have introduced any material which could not reasonably have been anticipated. Most debatable questions are discussed pretty thoroughly in an informal way, before they are ever brought to the point of formal debate; and it is a very unusual debater (except, of course, on occasions when some new piece of evidence has been discovered) who can devise a method of proof which a careful opponent will find surprising or unexpected. Usually the most that will be unexpected will be the general arrangement of proof, or the form in which it is stated.

To prepare for extemporaneous refutation, then, is simply to do what we have considered in former chapters: to analyze the question from **Armed with** the point of view of the opponent as well **Material.** as from one's own, to become acquainted with all probable or possible arguments on the opposite side, and to be provided with abundant evidence for overthrowing them. What is often thought to be great brilliancy is really only careful preparation. To have at one's hand the evidence that is needed is worth more than great eloquence. In a recent intercollegiate debate the speakers on one side quoted in support of their position from an article written by a professor in the opposing institution. It was at the opposing institution that the



debate was being held, and the quotation of course made no little impression on the audience. It was, in fact, merely a half-quotation, misrepresenting the general tenor of the article by selecting some sentences and carefully omitting others. The professor who had written the article was present in the audience, was of course profoundly annoyed by the use made of his statements, but could not rise and interrupt the debate to explain the true state of affairs. Unfortunately none of the debaters representing the institution where the debate was held had brought the article to the platform, nor was any of them sufficiently familiar with its contents to give a true account of it. There was nothing to do, therefore, but to ignore it. If one of them had been able to rise and read two or three sentences in the context of what had been quoted, throwing back upon his opponents the charge of garbling the evidence, the effect would have been most striking. The incident illustrates the importance of being prepared with all sorts of material on the subject in hand, expected and unexpected, before actually entering upon debate.

What must be done extemporaneously, then, in the matter of refutation, is, first of all, to decide which of the material prepared for the purpose is to be used, and which may be discarded. One need not answer what has not been charged; one must emphasize in refu-

Extempora-  
neous Refu-  
tation.

tation what has been emphasized in direct proof. In the second place, one must arrange the material of refutation in a connected and pleasingly coherent fashion, avoiding—as has been suggested in other connections—the use of separate, scrappy pieces of rebuttal. Usually this arrangement need not be wholly a matter of extemporaneous decision; for, except when the debate takes an unexpected turn, one can decide in advance in what connections it will be best to take up particular arguments of the opposite side. In the third place, the form of *expression* in rebuttal, as in most of the argument, must be left to the judgment of the moment. It will depend on what has been said, and on the way in which it has been said. A courteous opponent needs one sort of reply; a pugnacious adversary another. Sometimes the arguments to be attacked may be treated with contempt; usually they must be respectfully answered. The very phrase of an opponent will often furnish a skillful debater with a phrase for replying to him; the emphasis which he lays upon a word will give one an emphasis for one's own case. Thus Pitt, in a debate in the House of Commons in 1741, when he was called to order in a passion by Mr. Wynn-ington, said, in resuming his speech:

“ Sir, if this be to preserve order, there is no danger of indecency from the most licentious tongues. . .

Order may sometimes be broken by passion or inadvertency, but will hardly be re-established by a monitor like this, who cannot govern his own passions while he is restraining the impetuosity of others. . . . That I may return in some degree the favor he intends me, I will advise him never hereafter to exert himself on the subject of order; but whenever he feels inclined to speak on such occasions, to remember how he has now succeeded, and condemn in silence what his censure will never amend." \*

Thus Macaulay, too, when the poverty of Milton's granddaughter was urged as an argument for a long term of copyright, was able to retort in this fashion:

"If, Sir, I wished to find a strong and perfect illustration of the effects which I anticipate from long copyright, I should select,—my honorable and learned friend will be surprised,—I should select the case of Milton's granddaughter! As often as this bill has been under discussion, the fate of Milton's granddaughter has been brought forward by the advocates of monopoly. My honorable and learned friend has repeatedly told the story with great eloquence and effect. . . . Why, he asks, instead of obtaining a pittance from charity, did she not live in comfort and luxury on the proceeds of the sale of her ancestor's works? But,

\* These are not, in fact, the words of Pitt himself, but are taken from the report written down afterward by Dr. Johnson. They doubtless contain the substance of Pitt's retort, but are in the characteristically heavier style of Johnson.

Sir, will my honorable and learned friend tell me that this event, which he has so often and so pathetically described, was caused by the shortness of the term of copyright? Why, at that time, the duration of copyright was longer than even he, at present, proposes to make it. The monopoly lasted not sixty years, but forever. At the time at which Milton's granddaughter asked charity, Milton's works were the exclusive property of a bookseller . . . Milton's works are under a monopoly. Milton's granddaughter is starving. The reader is pillaged, but the writer's family is not enriched."

To pass to a very recent example: in a debate on the colonial policy of the United States, the debaters on one side repeatedly quoted statistics relative to Dutch Guiana, as proving certain laws of trade relative to colonies and their mother-countries. In reply, the opposing debater adduced contradictory statistics from a number of colonies of great size and importance, and concluded with the remark: "Ladies and gentlemen, there are more things in heaven and earth than Dutch Guiana!"

Such skillful retorts as these just quoted come, as has already been suggested, by a sort of inspiration, and all that a debater can do is to  
*Rapidity of Thought.* pray that, when the needful moment comes, the inspiration may be his. To cultivate rapidity of thought while on one's feet is possible,

but not easily reducible to rules. One must speak as often as he can without making himself a public bore. One may well be watchful, in conversation, of opportunities for keen rebuttal of weak arguments and empty sayings, though he need not make himself unpopular by putting his thoughts into words. Above all, one must be *earnest* in his thinking and in his investigation of doubtful questions; for earnestness is the mother of fluency. To such an one, if he be naturally fitted for a speaker, the act of rising to speak, the presence of an audience, the feeling that the occasion is a pressing one—that everything depends upon him, will act not as embarrassments, but as stimulants. His nerves will tingle, his blood flow quickly, his brain work like an engine. Ideas will come pouring upon him, from the very time and place. Words will follow suit, in such numbers as to need repression rather than stimulus. There is only one thing better than to hear a debater at such a moment, and that is to be the debater one's self !

We come now to the final problem of the debater, that of delivery. It is a troublesome matter, as being an essential to success, and yet a subordinate one. As a means to Place of Delivery. an end it is of great importance; in itself it is to be forgotten as soon as possible. To the speaker absorbed in his subject, and eager to convince his audience, it is a bore to be obliged to give attention

to the use of his voice, the position of his feet, or the motions of his arms. He rightly says that he is interested in more important matters. It is no doubt true that if one must choose between subject-matter and delivery, subject-matter should be chosen without a moment's hesitation; that a speaker with fine voice and presence, but with nothing to say, is far worse off than one with fine brains but poor elocution. And it would be a comfort to be able to add that, if one will only attend to the matter of his speech and the earnestness of his purpose, the delivery will take care of itself, or at least not make much difference. Unfortunately, however, experience forbids our saying so. We all know learned, even brilliant men, whose writings, whose conversation perhaps, are of the very first rank, and yet whom no one cares to hear make a public address. It may be from the simple fact that they cannot be heard; or it may be that they speak audibly, yet with so little vigor or variety that it is impossible for any one to listen to them for any length of time, remaining wide awake, without great power of concentration. On the other hand, we know men with comparatively few original ideas, whose speeches when printed and read prove to be vastly inferior to those of the former class, yet who can always command an audience and move an audience, through nothing else than their ability as speakers. These are the actual

conditions. And it follows that a debater without a good delivery is a soldier but half armed. He may know what he wants to aim at, but he cannot be sure of hitting it.

The characteristics of a good delivery may be stated in the same words as the qualities of a good style: *clearness*, *force*, and *elegance*. And the general laws of delivery are very <sup>Qualities of Delivery.</sup> closely related to the laws of style. Both are means for expressing what one thinks in a way that will make it the property of others. In both cases the aim is to make ideas intelligible, to drive them home, and to put them in pleasing and effective form.

The quality of clearness, then, provides that the speaker shall be heard. Whole books have been written, and will continue to be written, on the use of the voice in public speak- <sup>Clearness.</sup> ing; it would be unreasonable, therefore, to attempt here anything more than the slightest help in the way of practical suggestion. So much depends, too, upon the natural voice of any particular speaker, that each person must find his own critics and learn his own lessons. It may be said in general that making one's self heard is not by any means altogether a matter of loudness. Many speakers, used to immense audience rooms or to open-air meetings, speak too loud to be heard when they are in a small room. To bellow before a small

audience is ridiculous as well as wearisome. To speak with apparent ease and with quietness, and yet distinctly, is best of all. It is true that a certain amount of loudness is necessary in a large room. Usually a speaker can judge what this should be by fixing his mind upon the part of the room most distant from him, and directing his voice with such force that he will realize that he is reaching at least that distance. If the room is a large one, he may at first be content with making himself just audible, and no more, to his most distant hearers; the force of his voice will then naturally increase as he proceeds.

But apart from the matter of strength of tone, the elements of clear speaking requiring no little attention from most persons are clearness  
**Enunciation.** of enunciation and purity of tone. Ability to make one's self heard in large assemblies is often simply a matter of distinct enunciation. There are usually three points to be noticed here. The first is not to *swallow* the tone, but to keep the mouth well open and let the vowel sounds have a good chance to go straight from the place where they are made to the ears of the audience. It is astonishing how averse some speakers are to opening their mouths when they talk. "Dr. Blank may say a great many fine things," said one college professor in speaking of another in the same Faculty, "but one seldom realizes it, because he says them



inside his throat and a good part of them never gets out." The second element of distinctness is to utter one's consonants neatly and fully, and not to let them constantly slip away into nothingness. Failure to pay sufficient respect to the consonants of the language is a cause of much unintelligible public speaking. Even if it does not interfere with clearness, it produces a most slovenly and inelegant style of speech. The third element of distinctness is to keep up the force of utterance to the very end of each sentence, and not let the conclusion disappear into the speaker's throat. Many speakers seem to tire of their sentences before they are through uttering them; their minds no doubt are running on ahead to prepare for what is to be said next; the result is that a hearer must fall back on his knowledge of the subject or of the language to know how their sentences probably end. As a matter of fact, we have seen that the end of a sentence or paragraph is usually its most important part. It should therefore be brought out with special distinctness, and serve to clinch the thought which has just been uttered.

The element of purity of tone is even more difficult to treat apart from individual cases. It is a matter which few persons understand, though all appreciate it in the sound of <sup>Purity of</sup> ~~Tone.~~ different voices. Impure tones are caused by the presence of inharmonious "over-tones," as they

are called, which sound in conjunction with the principal pitch at which one speaks. Any one can appreciate this by speaking in a deliberately harsh tone of voice, and listening for the discordant overtones which can be heard in the throat. Singers spend many weary hours of practice in order to rid themselves of these impure tones. Speakers can do the same thing, if they will. Indeed the quality of the voice can usually be improved at will, by fixing the mind on it, and deliberately relieving it of the poor qualities of sound which one uses in common speech. A poor quality of tone is often due to the same cause which produces a weak or indistinctly enunciated manner of utterance,—namely, the failure to fix one's thought on the audience addressed, and to force out the tone in their direction. If one speaks in a sort of soliloquy, not letting the voice really escape from one's own throat, the resulting tones will be likely to be impure and unpleasant. If one opens his mouth and speaks straight out of it at a definite distant object, the quality will be improved. But all these matters relating to the use of the voice must be worked out by every speaker for himself. Deep breathing must be cultivated, in order not to tire the throat and the upper part of the chest by too great dependence upon them. An open throat must be cultivated, free from that constriction which so often tires speakers' voices when they do not know what

is the matter. Oftentimes catarrhal affections, or other enemies of the general health, must be disposed of if the voice is to be at its best. Constant criticism must be sought from those who are able and willing to tell one the truth about his voice and delivery. In this way, by the firm and constant use of the will, a weak and harsh voice may become comparatively strong and pure.

The quality of *force*, in delivery, is of almost equal importance with that of clearness. It has, indeed, already been touched upon, since the two are very closely connected. The <sup>Force.</sup> object of force in delivery is the same as that of force in style,—to make people not only *hear* but *listen*, and to drive home into their consciousness what the speaker is saying. Here is where we all realize that many speakers fail. Those in the habit of speaking to audiences that feel obliged to listen whether they want to or not, such as college professors, are very likely to make no effort to do anything more than simply say what they have to say, as though they were laying the matter on the table, or talking it into a phonograph, knowing that any one who should come by might take it up and get the benefit of it, or might not. But a debater must not be content with any such sort of speaking. He must make sure that his important ideas are heard because the very tone in which he speaks them is so insistent that the audience cannot choose but

hear him. He must bring out clearly, by changes in his voice, every change in his line of thought, so that it will be more certain of being understood. He must establish so close a connection between himself and his hearers, that from the moment he begins to speak until he sits down, it will be as though there were a current of electricity running on a wire between him and each one of them. A good speaker knows when this is the case, and insists on making and keeping up this—as it were—magnetic connection.

Vigor and variety, then, may be said to be the main elements of force in delivery. The important ideas of one's speech must be emphasized, must be driven home, as though one were giving each of them a blow with a hammer. But if there is a constant hammering at the same degree of force, its effectiveness will soon vanish. Some speakers make the mistake of beginning at full speed, full heat, and full force. They are themselves excited at the very moment of commencing, and do not realize that the audience is not yet ready to sympathize with their state of mind. When a speaker begins in a heat, and the audience is cool, they are likely to laugh at his waste of energy, and be entirely unmoved or even repelled. Or, if he begins violently and continues violently, as some loud-voiced speakers do, the audience may soon go to sleep, as they would do under the influence of

any other sort of monotony, when they have become used to the noise. The wise debater, then, will begin with something of the same sort of coolness and deliberation which his audience may be supposed to feel; he may then gradually warm to his subject, and carry the audience with him to greater degrees of force and higher planes of feeling. He will never pursue one manner of speaking too long at a time, remembering that force is always gained by change and contrast. A dropping of the voice, when one has been speaking loudly, is as impressive as a sudden raising of it when one has been speaking quietly. If both vigor and variety are used, the audience will be pretty certain to listen if the speaker has anything at all to say.

Variety of *pitch*, as well as of force, is an element of good speaking which many persons find very hard to attain. Not only is anything approaching a monotone sure to <sup>Pitch.</sup> produce the effect which we rightly call "monotony," but it is quite impossible to bring out all the shades of meaning that any speech contains, without constant variety of pitch. We have, in fact, in our common speech, a vast number of little *tunes* which express the relations of ideas quite as accurately as words. Everyone understands these tunes, but not everyone has the flexibility of voice to produce them easily. The

habit of singing, in which the pitch of the voice is of course constantly changing, is perhaps the most natural means of acquiring this flexibility; it also helps in the gaining of strength and good quality of tone. Not every speaker can hope to sing for the pleasure of others; but every speaker can and should sing a good deal for the good of his speaking voice.

Regarding the third great quality of delivery, elegance, very little need be said. It means, first of all, that a speaker shall rid himself so  
*Elegance.* far as possible of those particular temptations to awkwardness or uncouthness which especially beset him. To do this he must have friendly critics, who will not spare to tell him what absurd things he does when he is in the excitement of speaking. He must exercise his will-power until he is sure that he is master of himself. Elegance means, too, the same sort of dignity and persuasiveness in speaking that it means in style. The speaker must respect himself and his cause, but not be thinking of himself or talking of himself as though he were the theme of all his speeches. This is the prescription for true dignity of manner. He must respect his audience, too, and address them with the courtesy with which he would address any individual among them who might be his guest. This is the prescription for persuasiveness of manner. If these qualities abound, the

speaker will be pardoned much want of elegance in the placing of his feet or the movement of his hands.

The mention of hands and feet suggests the question: what can we say of posture and gesture, that shall be useful to the debater in a general way? Almost nothing at all. Posture.

Erect posture is a matter of habit and of a self-respecting state of mind. The speaker who slouches, or stands in a hang-dog fashion, has either acquired inelegant and unhygienic habits which gymnastic practice must correct, or else he is not on the proper terms with himself, his subject, and his audience. The self-controlled speaker, who feels that he is master of the occasion, will be likely to take a position of self-control. Even then, however, he may need friendly caution as to shuffling his feet, carrying his hands in his pockets, or indulging in bodily contortions when he is carried away by enthusiasm.

As to gesture, very little of it is needed in debate. What there is should be the outcome of the natural feeling of the speaker. A gesture prescribed and provided for a particular Gesture. place is one of the most lamentable pieces of gymnastics in the world. On the other hand, a gesture that comes from the spontaneous enthusiasm of the speaker will have good chance of being effective, even if it violate all the commandments of Delsarte.

Criticism of gesture, then, must be largely individual and corrective. If a speaker has formed the bad habit of waving his arms or beating his forefinger all through his address, he should be told of it and led to restrain himself. "Faithful are the wounds of a friend." On the other hand, if he makes almost no gestures at all it is because there is too little freedom and force in his general manner, because he is embarrassed or constrained, or has too little warmth of feeling; in such a case the cause must be corrected, not the effect. There are, indeed, laws of gesture, as there are laws of style, though it seems to be impossible to write a treatise on them and keep within the bounds of sanity. It will do a debater no harm to learn something of these laws,—may even in the long run do him good, but only when they have been absorbed into his general make-up. The entire nature and use of gesture, rightly looked at, are from within.

How much training in mere delivery is advisable for an inexperienced speaker? All that he can get, Training for Delivery, provided it is training of a general character, and not for a particular speech. Much practice on a particular speech is likely to destroy its spontaneous quality. But training of a general kind, with competent criticism and a rigid use of the will for the purpose of correcting faults and gaining force and elegance, can scarcely be overdone. The ambitious speaker should sing and



shout all he can, to make his vocal cords strong and flexible, and should practice gymnastics in order to strengthen his lungs and improve his muscular self-control. He should deliver many speeches to the walls of his own room, and should watch his expression and gestures in a good-sized mirror. It is only by speaking privately to a mirror that one can discover the mistakes of facial or bodily expression which one's friends will never dare point out; and such a discovery, made in private, is without the bitterness of publicity. To do all these things with a particular occasion in mind would be to incur the danger that, when the occasion had arrived, one should think not of the duty of the moment, but of posture, gestures, or quality of tone. But to do it frequently by way of general practice ought to wear tracks in the brain and along the nerves, such that, when an occasion demands all one's power, nerves and brain will react as they have been trained to do, and leave the attention to look after higher things.

All these matters of delivery can, from one point of view, be reduced to a single principle. The successful speaker is one who is able to reach and move his audience. To do this he must not speak as though talking to himself, or into the air, but must talk *to them*. He must reach out after them, must touch them by his speech, must enter into their sympathies so as to

Relation of  
Speaker to  
Audience.

move their feelings and wills. Two great facts must be in his mind: his *subject* and his *audience*. To bring these two together, as he sees them, is the whole end of his work. Himself he must for the time being forget. If this principle is operating in an ideal way, the brain will act logically, the style will move in orderly and fluent lines, and the whole physical man, as well as the man of thought and feeling, will be at its best. The debater with even moderate attainments of this kind will be in a fair way to become what it was said at the very opening of this book that a great debater always is: a leader of men.

## APPENDIX.

### INTRODUCTORY NOTE.

THE material in the Appendix is added for convenience of illustration and reference. The editor is under many obligations to those whose courtesy has aided in making possible the use of it for the present purpose.

The speeches are from recent discussions on real issues, and so, while perhaps not such trustworthy models of style as those of orators whose work has become historic, illustrate methods of debate which are genuinely susceptible of imitation. It was intended to include also a specimen of Congressional debate; but the conditions of discussion in our legislative bodies are such as to make it difficult to choose speeches which are at once careful, brief, and—standing by themselves—intelligible. Any student of argumentation will, of course, do well to seek in the *Congressional Record* for suggestions relative to debating in deliberative assemblies.

The speech of Mr. Meade is given as an example of refutation in extemporaneous debate. In this case the subject was such that the affirmative side had not only to prove its proposition but, from the very begin-

ning, to attack the arguments of the opposite side; and the present argument is an unusually skillful piece of solid rebuttal.

The speech of Mr. Warren is an example of clear analysis and clear presentation of a subject unusually difficult to treat before a popular audience. Reference was made to it, in the text of the book, as an instance of *constructive* refutation, a definite plan being offered in place of the proposition of the affirmative. Its compactness of style is also worthy of study.

The speech on the Venezuelan Message is given primarily as an example of persuasion in debate. The decision in this case was to be rendered not by judges, but by a general vote of the audience, which consisted largely of members of the club supporting the negative side. The object of the speaker, therefore, was to choose the arguments most likely to appeal to those present, to state them in popular form, and—while making clear the moderate position of his own side—to attack the negative arguments which were most influential in the community represented.

The briefs which follow the speeches are of course designed to illustrate different methods of building up an argument for debate, and of arranging one's material in outline. In some the method is comparatively free and simple; while such an instance as the brief on the Restriction of Trusts illustrates the most thorough and rigidly formal type of outline.

The legal brief is included for the purpose of illustrating the peculiar methods of legal argument, on a question of purely technical, rather than popular, interest, where matters of both fact and law are involved.

In this case considerable condensation was necessary, since, as was pointed out in Chapter III, legal briefs usually involve not only an outline, but a fairly full statement, of proof. The material is given in sufficient fullness to indicate the method of handling legal precedent and authority; the handling of the evidence could not so well be brought out in a limited space. Complete legal briefs, illustrating the handling of evidence, are of course easily accessible.

The brief from Macaulay's speech on Copyright is included as illustrating the way in which the clearness of structure of an argument may be brought out by drawing an outline from the finished speech. The brief on the Retirement of the Greenbacks is of course an outline of a *single speech* in a university debate; that on the Restriction of Trusts, on the other hand, is an outline of the whole case of the negative in such a debate—detailed evidence excepted. Circumstances must of course always indicate how full and how formal an outline is advisable for any particular purpose. The student of argument should err, if it at all, on the side of fullness and formality, for the sake of good practice in the analysis and construction of material.

Of course no originality is claimed for the list of one hundred Propositions for Debate which make up the third division of the Appendix. They have been gathered from many sources, and most of them have been actually tested in debate. It is believed that there is not one question on the list which is not genuinely debatable. Many of them, however, in order to avoid the limitations of particular times and places, have

been stated in a form more general and more inclusive than would be found serviceable in practice. Such a list can, at best, be only suggestive. When formal debates are held they should be on subjects chosen so far as possible from present conditions of living interest; and general subjects should be made as specific as may be, by applying them to particular times and places. Thus any of the subjects in the present list referring to "the States" in general, should be altered to read "Massachusetts," or "New York," or "Pennsylvania," according to the place and conditions of the proposed debate.

Subjects relating to art, literature, pure ethics, philosophy, and the like, have been purposely omitted, as experience indicates that they are unlikely to be profitable for formal oral debate. They are often valuable for discussion of a more informal character, and may, of course, where a live issue is clearly drawn and generally understood, be debated with profit. The one necessary quality of a debatable subject is that it shall be one on which living opinion is genuinely divided.

## I. ARGUMENTS.

### EXPANSION IN THE EASTERN HEMISPHERE.

(Speech delivered by Mr. Edward Sherwood Meade, of the University of Pennsylvania, in the Cornell-Pennsylvania Debate of February, 1899. Pennsylvania had the affirmative of the subject: "*Resolved*, That the interests of the United States are opposed to the permanent acquisition of territory in the Eastern Hemisphere, except so much as may be needed for naval stations.")

THE affirmative in this debate has taken strong ground in favor of expansion. We are expansionists in the broadest interpretation of that term. We are in favor of the largest possible extension of American trade and American enterprise. But in advocating expansion we have not lost our balance. We have been careful to base our advocacy of the American theory of expansion on the American practice of expansion, which is expansion on our own continent, and within the Western Hemisphere.

The first speaker on the affirmative made such a convincing plea in favor of this western expansion that he has won over to our view of the matter not only you, ladies and gentlemen, who have come here with open minds and unbiased judgments, but even

his opponents, who may reasonably be supposed to have inbibed a prejudice in favor of expansion in the East instead of in the West. The arguments of my colleague were, indeed, so conclusive, that the negative speaker who followed him so far departed from what we may suppose was his original intention, as to supplement and support my colleague's argument, showing in great detail the nature of our expansion in the past one hundred years, and filling in with nice exactness the broader outiines of the picture of national greatness which my colleague had so ably drawn. For this we thank him. We had hoped to convince the audience; we had not dared to hope that we should convince our opponents.

The second speaker on the affirmative has followed up this advantage by showing not only that western expansion is to our greatest economic advantage, but that eastern expansion, which means of course the permanent retention of the Philippine Islands, will be attended with grave political dangers;—dangers of war, dangers of political centralization, dangers to national character and national ideals. By this time the negative had recovered themselves sufficiently to take up the original thread of their argument, from which their first speaker had departed in his desire to support the argument of my colleague; and the gentleman who preceded me has given you a glowing prophecy of the advantages to the United States of trade with China. He has told you that we must have markets, that those markets lie in the East, and that permanent retention of the Philippine Islands will not only introduce us to those markets, but will furnish



us with a trading base from which we may capture the trade of China, of enormous extent and far greater promise. This is his argument for eastern expansion. And he does well to base his contention on the ground of economic advantage, where we are only too glad to follow him.

The American people are thrifty and enterprising. They dislike to make investments in losing enterprises. No matter what expansionists may say about "our duty to civilization," it is our interests, rather than our so-called "duty," that will determine our course of action. Now what are the commercial advantages of annexation?

In the first place, it is plain that the trade advantages of annexation do not lie in the Philippine Islands. No matter what the United States may do with the islands,—whether we give them independence, or hand them over to a foreign power,—our government can provide in the transfer that equal rights with all other nations be given to our merchants. We can secure no more than this by annexation, for, by declaration of the President and by our manifest self-interest in the friendship of England, we shall maintain the policy of the open door in the East, and under this policy all nations will have an equal chance in the Philippine trade. Sixty-five per cent. of the imports of these islands come from the British Empire; from the United States practically nothing. We have no special advantages in producing the cheap implements and materials which are mainly demanded by the natives, and it is unlikely that, unless favored by tariff discrimination, we could capture from other

nations the trade which they now control. Then, too, the imports of the islands are only ten and a half millions of dollars, and all of this would be insufficient compensation for the burdens of annexation.

Expansionists in general are quite ready to concede this. But they claim that possession of the islands will give us a foothold for trade with the East; and on this ground they justify their policy.

The political and financial burdens of annexation, as shown by my colleague, are very serious. At home we are secure from attack, and therefore free from war taxation. Our government is thoroughly democratic; our people become more homogeneous every year. A policy of colonial empire weakens our military position, increases the burdens of taxation, introduces the one-man power into our government, and transforms the United States of America into the United States of America and the Colonial Dependencies Thereof.

In return for these sacrifices the expansionists offer the possibilities of exports to the continent of Asia. Surely this trade must be great, and surely annexation of the Philippine Islands must greatly aid us to secure it, if the account is to be balanced. But if the trade of Asia is small, and if, in addition, the possession of the Philippines will not help the United States to secure that trade, the expansionist has lost his case.

What is the trade of the continent of Asia, and what chance have we to secure it? We may take India and China as representing approximately the entire amount. The total imports of China and India in

1897 amounted to \$440,000,000 to 620,000,000 of people, or seventy cents per capita. In the same year six European states imported goods to the value of six billion dollars to 253,000,000 of people, or twenty-four dollars per capita. The importance of this Asiatic trade, it is plain, has been greatly exaggerated.

Not only is the trade small in amount, but the United States is at a disadvantage in the East, and therefore has but a small share in the eastern trade. In Asia we must compete with Great Britain, and in this competition we are handicapped by distance. Our Atlantic ports are 3,000 miles further from Hong Kong than is Great Britain, and it is in the States of the East and the middle West that we produce the greater part of our exports. Even after the Nicaragua Canal is built, Liverpool is 1,300 miles closer to Hong Kong than is New York. Distance means coal, and more coal means higher freights to the American than to the English exporters. . . . Again, Japan and China are now absorbing the cotton trade of China, and cotton goods make up China's largest import. The United States is too far away to compete with English capital in these countries.

. . . The opportunities of the United States do not lie on the continent of Asia, but in Europe and America. In 1898 \$980,000,000 of our exports went to Europe,—more than doubled since 1888; \$184,000,000 to the American continent—an increase of 75 per cent. in eleven years; to the continent of Asia, in the same period, after fifty years of uninterrupted trade, \$26,000,000. What more conclusive answer could be given to the claim that the trade of the East

is sufficient to compensate us for the dangers, the difficulties, and the enormous cost of expansion?

But, says the expansionist, this trade will grow; China will develop. Well and good; but will not the trade with Europe grow? Will not the trade of the American continent grow even faster? Will not the same causes operate in the future as have operated in the past, to direct the current of American exports away from the farther East? And when we look to the future, we see even stronger ground for our position. . . . America is more and more devoting herself to the higher forms of industry, whose products satisfy the wants of civilization, especially along the lines where the mechanical excellence of her people gives them the greatest advantage. We seek a market for these goods among the people who wear shoes of leather, not of wood; who ride on railways, not in bullock carts; who use improved machinery, and not the tools of antiquity; who have something to buy with, and who are not engaged in a constant struggle for bare subsistence. For consuming purposes, one American is equivalent to thirteen Asiatics; one European equals thirty-four Chinamen and Hindoos. In short, we look to Europe and America to buy our manufactures, and we realize that the poverty-stricken myriads of the East have little for us.

The negative must therefore admit that the trade of Asia promises little for the present; and they must also admit that in the future the same causes which have directed our trade to Europe and America will continue to operate. They claim, however, that if we will but acquire territory in the Eastern Hemisphere,

the result will be a great expansion of our eastern trade. The only territory which it is proposed to acquire is the Philippine Islands. If they will not serve as a trading base, and if a better trading base already exists, the entire commercial argument of annexation falls to the ground. If we disprove this claim, imperialism has not a leg to stand on. Unless the Philippines can assist us to the trade of China, no one will advocate their retention.

A trading base is a place near the desired market, where commercial agencies and branch houses can be established, from which more exact knowledge of the wants of the customer can be gained, and which will act as agents between the consumer and the distant producer. We are familiar with the practice in the United States. Many American branches are to be found in Europe and the West Indies. Every facility for establishing these connections with China should be given our merchants. It is argued that the Philippines furnish such facilities, and that they can serve as a trading base for China. Let us examine this claim.

Manila is but 600 miles from Hong Kong, but is far off the direct line from the United States to Asia. The short line from North America to Asia is direct to the Sandwich Islands, thence to Yokohama, and from there to China. But to go from Japan to China by way of the Philippines is the same as to go from New York to Liverpool by way of Havana. It is more than a thousand miles out of the way to go to Hong Kong by way of Manila. It would be a heavy expense for steamers to add this extra

cost to the freights which they charge our exporters.

Again, the commercial agency must be near the market in which it is to operate. But a branch house in Manila for the China trade is in the wrong place. It must operate at long range by telegraph or mail service, and the American manufacturer in the United States could carry on his China business from his own office with as much facility as through a Manila agent. Evidently Manila is a poor trading base. If we wish to trade with China, let us by all means trade with China directly, and not from a post distant from six to fifteen hundred miles from the principal Chinese ports. Let us establish our China agencies where they will do the most good, in Hong Kong and Shanghai, in China itself. Twenty-three ports in China are open to our merchants. Here Americans can establish, and do establish, as many agents as they desire, free from restriction, with all their rights guaranteed. If any combination of powers desires to shut those ports, they must meet another combination, the combined sea power of the United States and the British Empire.

Consider for a moment an analogous situation. The Canary Islands, off the coast of Africa, bear almost the same geographical relation to Europe that the Philippines bear to Asia. If the Philippines can serve as a trading base for China, it would have been expedient to acquire the Canaries as a base for the European trade, which is of incomparably greater extent and promise. But what answer would an American merchant make to a proposition that he establish

a branch in the Canaries for trade with Liverpool? He would say that he was a sensible man, and preferred to put his agency where it would do more good, in Liverpool itself.

The trading-base argument therefore falls to the ground, and carries with it all the alleged commercial advantages of annexation. The commercial opportunities in the East are of small extent. The United States will have great difficulty in taking advantage of them, and annexation of the Philippine Islands will not assist her. Since eastern expansion, then, would cause great evils,—military and naval burdens, political centralization, international complications, and dangers of war,—and since eastern expansion is justified neither by industrial nor commercial advantage, we conclude that the acquisition of territory in the Eastern Hemisphere is opposed to the interests of the United States.

## THE RETIREMENT OF THE GREENBACKS.

(Speech delivered by Mr. Joseph Parker Warren, of Harvard University, in the Harvard-Princeton Debate of March, 1896. Harvard had the negative of the subject: "*Resolved, That Congress should take immediate steps towards the retirement of all the legal-tender notes.*")

MY colleague pointed out that we of the negative stand for the maintenance of a limited volume of government notes always convertible into gold; and he showed that we have the sanction of the highest authorities, and can point to the daily experience of three of the soundest financial systems in the world, those of England, Germany, and Canada. Then he showed that the gentlemen on the affirmative propose an indiscriminate treatment for our financial ills that does not square with the symptoms. He showed that, with the exception of silver inflation, the only trouble is the unfortunate connection between the revenue and issue departments of the Treasury, the vicious feature of which is the mandatory provision for the reissue of the redeemed legal tender notes. This mandatory provision makes the redeemed notes part of the general cash of the Treasury; and by their reissue they prevent the automatic contraction of the currency that would take place if they were only held. So they keep



going the endless chain that has carried off so much of the gold reserve.

These facts point unmistakably to the simple change that is necessary to make the retention of a limited quantity of convertible government notes not only safe, but positively advantageous. This reform is, first, to establish an adequate gold reserve; secondly, to separate the revenue department from the issue department; and, lastly and most important, to withhold the redeemed legal tenders from reissue except in exchange for gold.

These changes were recommended by the Secretary of the Treasury in 1880, by Hon. Thomas B. Reed in February, 1895, and by Senator Sherman in his speech of January 3d of the present year. The establishment of a separate issue department is simply an adaptation of the English system to our conditions. These reforms will restore the convertible legal tenders permanently to the conditions that they enjoyed by accident between 1879 and 1890. During that time, when the existence of a surplus in the revenue rendered the reissue of redeemed notes unnecessary, the convertible legal tenders were admittedly the best money we have ever had.

Furthermore, as soon as the simple changes I have indicated are carried out, the convertible legal tenders will become in all their workings exactly like specie, except that they are much more convenient. In fact, they are very much like specie now. They serve along with gold in bank reserves. They pass with the banks and money-changers of Europe. In the panic of 1893, they actually went to a premium and

were hoarded like gold. When the redeemed notes are held and reissued only in exchange for gold, the convertible legal tenders will become *precisely* like specie, and will obey the laws of specie in every particular.

As soon as we grasp clearly the idea that the convertible legal tenders act just like specie, we see that the arguments against them are deprived of their effect. For instance, our opponents have said that an arbitrary sum of government notes is now held in circulation, causing a redundancy in the currency. But suppose the currency consisted entirely of specie: what would be the natural remedy for redundancy? Clearly, the flow of gold out of the country. Precisely the same thing will happen when the currency consists partly of gold and partly of convertible legal tenders; only first there will be a movement of legal tenders into the redemption department of the Treasury, releasing an equal amount of gold. This gold will go abroad, and, as soon as the redundancy is removed, the flow of legal tenders into the Treasury will stop.

Another objection, urged by the first speaker on the affirmative, was that a legal-tender currency is inelastic; that it does not respond to expansions and contractions of business, as a bank-note currency should do. Very true; it does not. But here again we must look at convertible legal tenders as if they were specie. They take the place of just so much gold in circulation and in bank reserves. It is not in this foundation for business that we expect elasticity, but in the superstructure of bank notes and bank credit built

upon it. Do the gentlemen on the affirmative expect specie to vanish, like bank notes when they are redeemed and bank checks when they are cashed? It is just as unreasonable to expect such behavior from convertible government notes. They are not bank notes; they are not mercantile credit; they are permanent currency. It is true that we lack flexibility in our money system; but that is the fault of the national bank system, which must be reformed in any event, before we can have an elastic currency.

But the argument which the last speaker urged as a decisive objection to convertible government notes is that the government has no power to protect its reserve against exporters of gold by raising the rate of discount. The banks, being in the business of lending money, can always use this device to protect their reserves, and so he urges that all paper money be issued by the banks.

Now of course the government does not use the rate of discount; but I shall show that when the simple changes we propose have been introduced, the banks in protecting their own reserves will also protect the government reserve. Why do they not protect the government reserve now? Because of the redundancy. When there is too much money in circulation it flows into the banks; their reserves become excessive, and they have no motive for raising the rate of discount,—that is, increasing the charge for loans. Their tendency is just the opposite. They try to lend all they can at as cheap rates as bring any profit. The result is that legal tenders, which form over half of the money in bank reserves, are freely paid out, and are

used by gold exporters to deplete the Treasury; and then—this is the great vice in the present system, which we propose to remove—the Treasury *pays them out again*, thereby preventing the export of gold from reducing the redundancy. So they find their way back to the banks, and are used over and over to repeat the depletion.

Now, what changes will the necessary reform introduce? In the first place, the notes redeemed at the Treasury will be held and not reissued. This will soon carry off the redundancy. When the redundancy is gone, the bank reserves will soon come down to the lawful minimum which must be kept up if the banks would continue sound. So the rate of discount must go up, and when the rate of discount goes up it will protect that part of the bank reserve that consists of legal tenders just as surely as that part which consists of gold. In other words, the banks, in protecting their own reserves, will hold back the convertible legal tenders, which are the only means of depleting the government's reserve. The rest of the legal tenders are in the pockets of Jones and Smith, all over the country. They are doing business as usual, and not exporting specie. Furthermore, when the rate of discount has gone up, the whole train of results from a rise in the price of gold will be set in motion,—the level of prices will fall, exports will be stimulated, gold will flow our way, and the very motive for a drain on the Treasury will be done away.

Now what have we accomplished so far in this debate? We have argued for certain simple changes. We have shown that, if these changes are but made,

the convertible legal tenders will become in all respects like specie. What reasons have we heard for sweeping all the notes away? Our opponents have said much against badly managed legal tenders: can they discredit convertible legal tenders in themselves? On the contrary, they cannot refute the reasoning of Ricardo. They cannot ignore the examples of England, Germany, and Canada. They cannot deny that from 1879 to 1890 the legal tenders were the best money the people ever had. They cannot deny that simple changes would restore them to that position, and make them everywhere as good as gold. They cannot deny that the banks would guard the government reserves as zealously as their own financial soundness. Unless they meet and overthrow these arguments, I claim that their case for the retirement of the notes cannot be made out.

## THE VENEZUELAN MESSAGE.

(A speech delivered in a debate between the Harvard Union and the Trinity Club of Boston, February, 1896, on the affirmative of the question: "*Resolved*, That we endorse President Cleveland's message relating to the Venezuelan boundary.")

A PEACEABLE citizen once saw a man apparently breaking into his neighbor's house. On observing that the premises were sufficiently guarded, he summoned assistance, and himself demanded of the intruder that he either stop his advance or show his right to the entrance. "But," said the thief, "this is not your house." "Very true," replied the citizen, "but you might break into my house to-morrow, if successful in this adventure to-day." "But," urged the thief further, "this man owes me some money." "It may be so," said the citizen, "but the justice of your claim will not justify the injustice of your method." "Who are you?" said the thief, then, "to interfere with the actions of another as good as you?" "I am my neighbor's neighbor," said the citizen, "and the security of this highway is a part of my responsibility." "Do you not know," asked the thief finally, "that if you persist in this outcry you may stir up violence, and blood may be spilled between us, who are in fact brothers, speaking the same language?"

"I know," said the citizen, "that my blood is not yet so thin as to save itself at the expense of my duty." But before the dialogue proceeded further, the patrol wagon appeared, and bloodshed was averted by the officers of justice.

No illustration really illustrates more than one or two points, and I want every one saved the trouble of showing that this little fable is not a complete allegory of the Venezuelan dispute. It is intended, however, to illustrate three things. First, that there are wider interests than those of a given moment. Second, that if justice and public interest reside in a given law or principle, they are at stake in every instance coming under that principle;—in other words, if burglary in the state is contrary to the public weal, *every* burglary is contrary to the public weal, no matter how insignificant the premises entered nor how respectable the robber. Third, that what is the interest of one to-day may be that of another to-morrow.

It will be seen that I am chiefly directing myself against the claim that the Venezuelan boundary is not a matter which legitimately concerns the United States. It is claimed that it is not enough to show that our government has acted the part of a strong friend to a weaker republic; individuals, it is said, may be bound by some ties of solidarity to their neighbors, but governments exist solely for the promotion of the interests of their own people. There might be some doubt about this, in this year of our Lord 1896; but we are content to rest the question on that basis. We are not content, however, to have it demanded that we must show that the actual territory under

dispute in Venezuela is directly connected with the material interests of the United States. Even if this were a just demand, we might recall that the disputed territory includes the mouth of the Orinoco River, a point of no little commercial and strategic importance for the whole hemisphere, and that it also has a near relation to the proposed site of the interoceanic canal. But all this seems so trivial, compared with the larger interests at stake, that we do not feel that our time should be spent upon it.

The larger principles may be briefly stated thus: it is contrary to the interests of the United States that the territory of either American continent should be subject to the imperial advances of European powers; that advantage should be taken of points weak in self-defence for the territorial aggrandizement of those powers; or that questions of dispute between American and European powers should be settled by the assertion of authority and physical force. I cannot see how any thoughtful man can object to this statement of the large interests of the United States as the power chiefly concerned in the Western Hemisphere. And if these are our large interests, it does not matter whether it is the mouth of the Orinoco or a puddle on the Patagonian coast that is the object of the imperial grab.

The present case comes directly under these principles. England has demanded certain territory on the American continent; she has proposed to enforce her claim against a weak American republic; and has declined to submit the whole question, as it stands between the strong and the weak, to impartial arbitration.



Let it not be understood that we raise any frantic cry of warning against Great Britain, as though this encroachment were the beginning of a general attack on the Western Hemisphere. It is quite unlikely that any wider purpose is in the minds of British officials than the peaceable occupation of a convenient and commanding piece of territory, under color of a boundary dispute;—*peaceable*, be it understood, only because of the superior strength of the aggressor.

But, it is said, how can we assume that England is doing more than maintaining a just boundary claim? We reply, we can *not* assume that England is in the wrong on the merits of the dispute; the merits are in doubt, and it is the object of the President's message to find them out. Much breath has been wasted on the ground that Mr. Cleveland has declared war on a question which he had decided with insufficient evidence. There are but two difficulties with that: Mr. Cleveland has made no attempt to declare war, and he has not claimed to settle the original question on any evidence whatever. If the proposed Commission should sustain the claims of England, I do not know that any one should be better pleased than he. In such a case the British government would have been shown to have uselessly maintained a proper claim by improper methods; our government would simply have insisted that the whole truth should be known.

So far as the boundary matter is concerned, it *is* to be admitted that when a greater power, bordering upon a lesser, extends its boundary four times in eighty years, and by so doing increases its colony nine-fold without addition by war, purchase, or treaty—sim-

ply by pushing along the boundary, like a movable fence; when it is known to have a keen appetite for western territory; and when the lesser power submits its claim to the judgment of the world, but the greater to its own judgment alone;—in such a case, I say, an impartial observer is not unwarranted in suspecting that something more or less than abstract justice is at the bottom of the claims of the stronger power. If those claims are just, we have a right to know it; if they are unjust, the dignity of Venezuela herself is but little more attacked than ours.

This seems the place to refer to the late lamented Monroe Doctrine, which on yesterday we supposed to be one of our national pillars, but which to-day, having been subjected to the scrutiny of some, is discovered to be a mere apparition. I cannot feel that the detailed discussion of this Doctrine is of value for our present purpose. We admit that it has no standing in international law, any more than the Declaration of Independence. Both have just as much value as we wish to give them and are able to maintain. Nor does the President's message depend for vindication upon this doctrine; for we have shown that the issue may be decided upon our present interests alone. The fact is, the Monroe Doctrine is largely a traditional name for our principle of national leadership among the republics of this hemisphere. What President Monroe applied it to may be historically interesting, but is not of great importance. The significant thing about it was its declaration that the United States *had an interest* in the condition of American territory, and would maintain that interest. The Holy

Alliance, in the face of which it was first enunciated, is gone forever; efforts to plant new colonies on American soil are as obsolete as slavery or piracy; the original occasion of the Doctrine cannot recur; but its significant principle—American rights on American territory—is alive to-day if never before. . . .

I cannot close without a reference to the loud talk of war which has been strangely aroused by this message of the President. At its appearance the newspapers seized upon a single phrase, and transmuted it—after their ingenious manner—into headlines of startling import; and ever since we have been hearing martial music from Kentucky and other belligerent districts, and on the other hand the protests of the lovers of peace. What did the President say in his closing paragraph? That if his position on the matter of the Venezuelan dispute is correct, we should be ready to stand by it to the limit of our abilities; that he is not ignorant that, if England is as much in earnest as we, serious differences might result; but that even our friendly relations with Great Britain are not so important as self-respect and justice. Doubtless he should have said that, although he believed the American people support his position, yet if Great Britain should object we would of course submit; and that no serious consequences could possibly occur, since no consideration of our own rights could compare with the evil of having to fight for them. We are not in the habit, however, of electing Presidents who talk in that way.

To speak more seriously, the closing paragraphs of the message depend for their defensibility upon all

that precedes. If the general position of our government is wrong, we should naturally be disturbed at any prospect of its becoming a disturber of international peace. If it is right, while we should all deplore any interruption of peace, we should not consider that peace is to be secured by retraction. As a matter of fact,—and on this I want to lay the greatest possible emphasis,—Mr. Cleveland's message represents him as the firmest friend for peace. What is the great modern enemy of war but Arbitration? Between the two methods choice must constantly be made. England has sought to avoid either; our government demands the method for which all that is best in modern civilization stands. The President can say in all seriousness that he loves peace so well that he is willing to fight for it. He has re-announced the leadership of the United States in the American continents; he has brought that doctrine to the support of the rights of the weak and of our own interests; he has taken a signal stand for the only just and peaceable method of adjudging international disputes,—and we will stand by *him*.

## II. BRIEFS.

### BRIEF OF A LEGAL ARGUMENT.\*

(Outline of the Brief of Argument for Plaintiff, in the case of Phœbe W. Hoffman (Plaintiff) *vs.* The Delaware Coal Co., and The Philadelphia & Reading Coal and Iron Co. (Defendants). In the Court of Common Pleas No. 4 for the County of Philadelphia. In this case suit was brought to secure the payment of a royalty on coal mined from a certain tract of land, which had been leased with the provision that the rent should take the form of such royalty.)

#### OUTLINE OF FACTS.

*Analysis of the Lease.* The lease of Dec. 12, 1876, granted to the defendants the exclusive right and privilege of mining anthracite coal from all the veins in and under certain tracts of land.

There was a covenant by the lessee to pay 20 cents per ton for all coal mined from the tract, as rent for the same. The lessees further covenanted to mine at least 25,000 tons of coal a year until Dec. 31, 1878,

\* An *abstract* of a brief used by courtesy of Mr. George Wharton Pepper. A sufficient part is given to indicate the analysis of the case and the structure of the argument.

unless prevented from doing so by accidents or occurrences beyond their control, and after that date to mine at least 50,000 tons per year, unless prevented as above.

*The Defendants' Breach.* The Reading Company conducted limited operations in the shafts until the end of 1884, and in the seven years thus elapsing they mined 58,900 tons of coal—about one-fourteenth of the minimum quantity covenanted for. Then they stopped work.

The question in this case therefore is: *Has the Philadelphia & Reading Coal and Iron Co. the right to suspend operations, and, in violation of its covenant, to cease paying rent until such time as it sees fit to resume?*

*The Defendants' Answer.* The covenant to mine 50,000 tons a year being absolute, the defendants are driven to the contention that their suspension was due to "accidents and occurrences beyond their control." Their answer alleges that faults were encountered in mining which entailed so great an expense in obtaining the small amount of merchantable coal contained in the veins, that it became *impracticable and impossible* to mine therefrom the minimum annual tonnage. "All the available coal was mined out." These, the defendants aver, were accidents and occurrences wholly beyond their control, which excused performance of the covenant.

*The Plaintiff's Propositions.* The plaintiffs accordingly advance the following propositions, which they will maintain by principle and precedent:

- I. The evidence shows that it was at all times and is now physically possible to mine 50,000

tons of coal annually from the Delaware tract.

II. The *possibility* of mining the minimum quantity being established, it is no defence to this suit to allege that it is *impracticable* or *unprofitable* to mine that amount.

III. Moreover, the evidence shows that it was at all times, and is now, practicable to mine that amount, and that the coal can be obtained profitably and advantageously.

IV. Faults in veins and a disturbed condition of strata are not "accidents and occurrences" within the meaning of the lease.

I. The *possibility* of mining the minimum quantity of coal has

A. Been proved by testimony of plaintiff's witnesses. (Testimony cited.)

B. Been proved by admissions of defendants' witnesses. (Testimony cited.)

C. Not been denied in the defendants' answer.

II. The possibility being established, "impracticability" is no defence.

A. The fact that a mine is not "workable to profit" is no defence to an action for rent.

Judge Hare, in his work on contracts, observes that as the tenant under a lease "will reap the benefit, should the bargain prove advantageous, so he should bear the loss if his expectations are disappointed by the event."

In *Haywood vs. Cope*, where a leased colliery turned out to be worthless, Lord Romilly delivered an opinion decreeing

specific performance, pointing out that the lease of a mine "is always, in some degree, a speculation; . . . and it is well known that leases and sales are always made with reference to this circumstance."

To the same effect is the decision of the House of Lords in *Gowan vs. Christie*.

B. When rent is reserved by way of royalty, the same principles apply.

In *The Marquis of Bute vs. Thompson*, it was held that the effect of the lease was to make the sum payable, in spite of the fact that the mine was exhausted.

The same is the rule in equity. *Ridgway vs. Sneyd*; *Jervis vs. Tomkinson*; *Bamford vs. Lehigh Zinc Co.*; *McDowell vs. Hendrix*.

The case in hand differs from *Marquis of Bute vs. Thompson*, inasmuch as no fixed rent is reserved, but only a royalty rent with a covenant to mine a certain minimum amount. The result is that the parties will be taken to have contracted upon the assumption that enough coal to yield 50,000 tons per annum exists under the tract. *If, therefore, that amount of coal does not exist, the lessee is excused from paying the rent; but not otherwise.*

In *Gilmore vs. Ontario Iron Co.*, where a lease reserved a royalty rent, the court held that the defendant was bound to



pay the minimum royalty as long as there was the corresponding quantity of ore in the land.

In *Walker vs. Tucker*, where a lease contained an undertaking on the part of the lessee to mine at least 30,000 tons a year and to pay a fixed royalty, and where the plea alleged that the mines became "incapable of yielding, when worked in a good and workmanlike manner, . . . sufficient coal to pay for working said mines," the court held that the plea was insufficient; "there is nothing in this instrument," it was said, "which authorizes a suspension or abandonment of mining because it has become unprofitable."

III. The evidence shows that it was and is practicable to mine the minimum amount, and that the coal can be obtained profitably and advantageously. This is shown by

- A. The plaintiff's evidence in chief. (Testimony cited.)
- B. The defendants' cross-examination of plaintiff's witnesses. (Testimony cited.)
- C. The defendants' evidence. (Testimony cited.)

It will be borne in mind, however, that in discussing this subject we are doing so much in excess of our strict duty; for strictly, the plaintiff is entitled to a decree upon the basis of the first, second, and fourth propositions.

IV. Faults in veins and a disturbed condition of the strata are not "accidents and occurrences" within the meaning of the lease.

The truth of this proposition is admitted by the defendants' principal witness.

It is well settled that such a term as "act of God," or inevitable, unavoidable accident, does not extend to ordinary risks.

In *Oakley vs. Packet Co.*, "head winds" were held not to fall within an exception of this kind.

Lord Romilly has already been cited to the effect that a mine is always in some degree a speculation, and that "leases and sales are always made with reference to this circumstance."

In *Morris vs. Smith* the meaning of the term "accident beyond control" was determined once for all. Mines were unexpectedly flooded, so that they could only be mined at a loss; yet Lord Mansfield held that the lessee was bound by his covenant on the ground that unavoidable meant *physically unavoidable*.

## BRIEF OF MACAULAY'S SPEECH ON COPYRIGHT.

(This speech was delivered in the House of Commons, February 5, 1841, in opposition to a bill extending the term of copyright to sixty years from the death of the writer. The speech may be found in Baker's "Specimens of Argumentation," pp. 181-203.)

### INTRODUCTION.

I. It is painful to take a course which may be thought unfriendly to literature; but it is a duty to oppose the pending bill.

II. It must first be decided whether the question is one of natural right, or one of expediency on which the House is free to legislate.

III. It is purely a matter of expediency.

Property is the creature of law.

Even if it is a natural right, it cannot survive the original proprietor.

This is shown by the various modes of succession which are provided for by law.

IV. Since the existing law, then, gives an author copyright during his natural life, the only point at issue is, how long after his death the state shall recognize a copyright for his heirs.

## ARGUMENT.

- I. The system of copyright should be an arrangement such as to effect a compromise between the advantages and the disadvantages of such a law.

For copyright has essential advantages.

We cannot have a supply of good books unless men of letters are liberally remunerated, since Works of great merit can be expected only from persons who make literature the business of their lives.

And copyright is the least objectionable way of remunerating them, since

They can be remunerated only by patronage or copyright; and

Patronage as a system is fatal to the integrity and independence of literary men.

Copyright has, nevertheless, marked disadvantages.

It is monopoly, and

Monopoly always makes things dear.

(The claim that the real effect is to make things cheap is absurd, for

If this were so, there would be no need to limit the period of monopoly; there would be no compromise between principle and expediency; and all the old unpopular monopolies should be revived.)

- II. The proposed law is further from the point of just compromise between advantages and disadvantages than the existing law.

The evil effects of monopoly are proportioned to its duration, for

They continue indefinitely to affect purchasers.

But the advantages of a *posthumous* monopoly are not so proportioned, for

Distant advantages affect men but faintly  
(Example of Dr. Johnson's copyright in the hands of a modern bookseller).

The proposed law really multiplies the tax on readers without additional bounty to authors.

The plea made for the claim of the descendants of great writers is not valid;

For it is highly improbable that a copyright will descend for many years from parent to child.

No one proposes to entail it.

It will in all probability be sold by heirs to booksellers.

In case of sale the family would not be paid in proportion to the term of copyright, since

Distant advantages have slight present value.

Literary fashions change so rapidly that no one can predict future sales.

The case of Milton's granddaughter, cited by the other side, is quite in point; for when she was in need, Milton's copyright had already passed into the hands of a book-seller.

Moreover, the proposed law would probably

lead to the suppression or mutilation of many valuable works.

Conscientious scruples, family pride, or bigotry, would lead the inheritors of copyright to withhold books which they might not approve

(Examples from the works of Richardson, Boswell, Wesley).

#### CONCLUSION.

The effects of the proposed law would altogether be so evil that they would be evaded by piracy, and this would lose its disreputable character through popular approval.

All copyright would become unpopular, through the lack of discrimination between just and unjust forms.

As the bill cannot be satisfactorily amended, let it be laid aside.

## BRIEF ON THE RETIREMENT OF THE GREENBACKS.

(Brief of the speech of Mr. J. P. Warren, reproduced on pp. 230-235. In this case the argument is supposed to be attached directly to those of the preceding speakers, and the first main heading is not developed, but is merely a recapitulation of the material of the first speech on the negative.)

Congress should take immediate steps towards the retirement of all the legal tender notes.

### NEGATIVE.

*The maintenance of a limited number of notes convertible into gold is, under proper conditions, a safe and convenient policy.*

I. Such a policy is approved by good economic authority, and is suggested by the example of three of the soundest financial systems of the world:

England,  
Germany,  
Canada.

II. Existing evils in our present system can be met in other ways than by the retirement of the legal tenders.

They are due chiefly to the mandatory provision for the reissue of redeemed legal tenders.

They can be removed by

- a) establishing an adequate gold reserve;
- b) separating the revenue and issue departments of the Treasury;
- c) holding redeemed legal tenders in the Treasury, except in exchange for gold.

These changes have been recommended by the Secretary of the Treasury, by Hon. Thomas B. Reed, and by Senator Sherman.

They did not exist, it is admitted, between 1879 and 1890, when the existence of a surplus in the revenue rendered the reissue of redeemed notes unnecessary.

III. With these changes accomplished, legal tenders will be exactly like specie.

They are already very like specie:

They serve in bank reserves;

They pass with European bankers;

They went to a premium in the panic of 1893.

When they are reissued only in exchange for gold, the only existing difference will disappear.

IV. When legal tenders are seen to act like specie, the objections made against them lose their effect.

The objection that they cause redundancy in the currency is met; for

Just as redundancy of specie is relieved by the export of gold, so redundancy of legal tenders, when these have been redeemed at the Treasury, will be relieved by the export of an equal amount of gold.



The objection to the inelasticity of legal tender currency is no more applicable to it than to specie.

Like specie, legal tenders cannot be expected absolutely to disappear.

The inelasticity of the currency is due simply to the lack of flexibility in our general monetary system.

The objection that the government has no power to protect its reserve against the export of gold by raising the rate of discount, ignores the fact that the banks, in protecting their own reserve, will protect that of the government.

They do not do so now only because of the system of reissue, which, by maintaining redundancy, takes away from the banks any motive for raising the rate of discount. When the redundancy disappears, bank reserves will fall to the lawful minimum, and the rate of discount will be raised.

At the same time prices will fall, gold will be reimported, and the motive for draining the Treasury will disappear.

#### CONCLUSION.

The remedy is not to do away with legal tenders, but to institute the proposed reforms, by which legal tenders will become precisely like specie.

Objections raised against legal tenders are only to badly managed legal tenders.

The doctrines of economists, the experience of other countries, our own experience in 1879-1890, all indicate that under right conditions legal tenders are money of the first order.

## BRIEF ON THE RESTRICTION OF TRUSTS.\*

Question: *Resolved*, That the formation of trusts should be opposed by legislation.

### INTRODUCTION.

- I. A trust is a combination of business interests to control or regulate the production or distribution of articles of commerce.
- II. The recent history of combination.
  - A. Ante-bellum period characterized by
    - 1. Free and unlimited competition generally.
    - 2. Combination of capital rare; but existing in
      - a) Railroads;
      - b) Telegraph;
      - c) Coal mining.
  - B. Period between the war and the crisis of 1873 one of business revival, characterized by
    - 1. Enormous increase in production.
    - 2. Overproduction, culminating in the crisis of 1873.

\* The work of Mr. Stanley Folz, of the University of Pennsylvania, Class of 1900, to whom I am indebted for the use of it.—R. M. A.

C. Period between crisis of 1873-1877 and the present time, one of combination.

I. Unrestricted combination to 1889.

a) Formation of "trusts," in which stock was surrendered to a central board of trustees, who in turn issued certificates and collected and distributed dividends.

b) Investigations of Trusts by

U. S. House of Rep., authorized Jan. 25, '88;

N. Y. Senate, authorized Feb. 16, '88;

(Canadian House of Commons, Feb. 29, '88.)

2. Restricted combination, 1889 to date, characterized by

a) Alteration of trust form; central board of trustees abolished, certificates exchanged for stock, and new trusts organized by purchase of old concerns, in consequence of

Anti-Trust laws of 1889, 1890, etc.;

Judicial decisions, in Sugar Trust case, etc.

b) Crisis of 1893.

c) Increase in number of combinations:

by end of 1898, 200;

by end of Feb., 1899, 353.

III. The trust question commands attention, because

A. Enormous capital is already invested in combinations.

B. Combination is apparently supplanting competition.

*The formation of trusts should not be opposed by legislation.*

ARGUMENT.

- I. Combination of industry and capital is an economic development.
  - A. Free competition led to certain evils :
    - 1. Overproduction.
      - a) Industrial plants were multiplied during periods of prosperity without reference to the demand ; e.g., whiskey distilleries.
      - b) Capacity of old plants was increased in a similar fashion.
    - 2. Periodical depression of business, caused by low prices, resulting from overproduction and the cheapening of products.
    - 3. Annihilation of weaker competitors by the stronger, due to the ability of strong concerns to undersell weak ones.
      - (Cf. testimony of Spreckels and Havemeyer before Senate Committee ; and von Halle on Trusts, pp. 61, 62.)
  - B. Capital combined to protect itself against the evils of free competition.
    - 1. By combination it is designed to avoid the evils just enumerated.
- II. Combination of capital is productive of good.
  - A. It cheapens production.
    - 1. Great economy is possible in the purchase and use of raw materials.
    - 2. Improved methods of production are used.

- a) An improved system used in one plant inures to the benefit of all.
- b) Patented machinery owned by one plant is extended to the use of all.
- c) Experimental stations are maintained, where better methods are being constantly sought ;  
e.g., Whiskey Trust and Cotton Oil Trust.
3. Trusts manufacture casing and packing, and material used in process of production ;  
e.g., Standard Oil Trust saves upwards of \$6,000,000 annually by making its own barrels and tin-cans.
4. By-products are utilized ;  
e.g., Standard Oil Trust manufactures over 300 by-products.
5. Trusts produce in bulk, thus reducing cost of production per unit of capital.
- B. It lessens waste.
  1. It prevents unnecessary duplication.
  2. It prevents unnecessary advertising, for
    - a) Advertising does not so much increase the total volume of business as it shifts it from one concern to another.
  3. It reduces the number of traveling salesmen.
- C. It facilitates distribution.
  1. The market is supplied from the nearest plant.
- D. It regulates the supply according to the demand.
  1. Overproduction is prevented.

Thus 68 out of 80 distilleries in the Trust for a time supplied the entire market.
  2. Provision is made for keeping the supply equal to the demand.

Thus the Sugar Trust has built a refinery to serve as a safeguard in case of breakdown or of increased demand.

E. It secures the necessary outlet for our vast producing capacity.

1. The producing capacity of our manufactures is \$150,000,000, while our consuming power is but \$75,000,000 (testimony of T. B. Thurber before U. S. Industrial Commission).

2. Trusts are enlarging our foreign commerce, keeping "capital and labor continuously and remuneratively employed by preserving our home market and reaching out for a place to dispose of our surplus." (See E. W. Bemis on The Trust Problem, *Forum*, Dec. 1899.)

III. The reasons urged for the opposing of trusts by legislation are insufficient.

A. The claim that trusts maintain excessive prices is insufficient.

1. The maintenance of excessive prices would lead of itself to the destruction of the trust or the reduction of prices.

a) To keep prices at a level higher than the market will bear leads to underconsumption; and

b) Underconsumption leads to the fall of the trust.

Thus the French Copper Trust, in 1888, having raised the price of copper from 40 to 80 pounds, was unable to obtain a market, and failed. (*Quarterly Journal of Econ.*, 1889, p. 508.)

- c) Excessive profits attract capital into the industry concerned, thus leading to competition and a decline in prices;—the factor known as “potential competition.” Thus—

Capital has formed several companies as rivals to the Sugar Trust.

When steel rail manufacturers in England combined and raised prices, American manufacturers for the first time sold rails in Canada. (See Andrew Carnegie in *North Amer. Rev.*, 148: 141.)

In 1894, when the Standard and Russian Oil Companies met to divide the world between them, it was found that the Standard Oil Company could not guarantee the absolute control of the American market, owing to the standing of the Columbia Oil Company. (See von Halle on Trusts, pp. 74 f.)

2. Present high prices in many industries can be otherwise accounted for.
- a. Supply cannot meet the demand.
    - x) No surplus accumulated during the period of depression after 1893, with which to supply the demand that followed the revival of business.
  - b. Raw material is high owing to the increased demand for it.
  - c. High prices immediately after the formation of a trust are often merely the return



to a fair level, the margin of profits having been wholly or nearly wiped out before combination occurred.

B. The claim that trusts as such reduce the price of raw materials is insufficient.

1. The ability to purchase raw material at the lowest possible prices is not confined to combinations.

a. In ordinary competition the largest purchaser obtains the best rates.

2. Where trusts do purchase the raw material more cheaply than before combination, the producer suffers no hardship.

a. Though the percentage of profits is smaller, the net profits are larger, owing to the great bulk of the purchases.

3. It is not the tendency of all trusts to reduce the price of raw materials; e.g.,

The Tin Plate Trust pays increased prices for tin and steel.

The Cotton Oil Trust pays increased prices for cotton seed. (See von Halle on Trusts, p. 71.)

C. The claim that the trust prevents the old form of competition is insufficient.

1. The trusts are the result of reckless and cut-throat competition.

2. Trusts raise the level of competition.

a. Competition between trusts is possible; e.g.,

Sugar wars between the Trust, Arbuckle, and Doescher.

Standard and Columbia Oil Companies, as noted above.

3. By analogous reasoning steam and machinery should never have been permitted to compete with hand labor.
  - a. Competition between combinations is on a high level, like that between machine-made products.
4. Free and unrestricted competition is an evil. (See I. above.)
- D. The claim that trusts crush the middle class of producers is insufficient.
  1. Under a trust the small producer becomes a manager.
    - a. Trusts endeavor to include all producers or manufacturers in their own line of business.
  2. A trust is often formed to prevent the crushing of the small producer by competition; e.g., the Whiskey Trust.
  3. The trust is economically superior to the small producer. (See II. above.)
- E. The claim that trusts are oppressive to labor is insufficient.
  1. Labor was never before in such great demand. (See report of Factory Inspector of Pennsylvania for 1899, in which it is said that in Pennsylvania alone 181,000 more factory hands are employed than in the preceding year.)
  2. Organized labor is not opposed to the combination of capital.

- a. It can make long-term agreements with trusts.
- b. It secures steady wages from trusts.  
(See testimony before the Industrial Commission of President Gompers of the Federation of Labor.)

IV. The defects of the trust system can be remedied by legislation corrective rather than prohibitive.

A. The prohibition of discrimination in prices would be such a remedy.

- 1. A trust could not then undersell a competitor in one locality, while reimbursing itself for losses thus sustained by raising prices elsewhere.

B. The requirement of increased publicity in management, and of responsibility on the part of directors, would be such a remedy.

- 1. The public would then know the true worth of a plant.
- 2. Directors could be held liable for losses.

C. The permitting of associated railroad action would be such a remedy.

- 1. A trust could not then force one railroad to give it advantageous rates of transportation, on the threat of withdrawing its trade.

D. Increased care in the imposition of high import duties would be such a remedy.

- 1. Foreign competition would then remove the possibility of the maintenance of excessive prices by a few trusts.

## CONCLUSION.

- I. Trusts are a natural economic growth.
- II. They are capable of working much benefit for the community.
- III. The institution should therefore be preserved, its defects being remedied by corrective, not prohibitive, legislation.

### III. PROPOSITIONS FOR DEBATE

#### POLITICAL.

1. United States Senators should be elected by direct vote of the people.
2. The President should be elected by the direct vote of the people of the United States.
3. The policy of excluding the Chinese from all territory over which the United States may exercise jurisdiction, should be rigidly maintained.
4. The white citizens of the Southern States are justified in taking all peaceable measures to insure their political supremacy.
5. Ex-Presidents of the United States should have seats for life in the Senate.
6. The members of the President's cabinet should be members of the House of Representatives.
7. The legislative referendum should be introduced by our State governments.
8. The United States army should be permanently enlarged.
9. The United States should reaffirm and maintain the doctrine that governments derive their just powers from the consent of the governed.
10. The "Record system" of nomination should

be adopted by our State and municipal governments.

11. Proportional representation should be introduced by our State governments.

12. The United States should institute a system of responsible cabinet government.

13. The States should limit the right of suffrage to persons who can read and write.

14. National party lines should be discarded in municipal elections.

15. The President of the United States should be elected for a term of six years, and be ineligible to re-election.

16. Women who pay taxes should have the right to vote at municipal elections.

17. The Prohibitionists, Populists, and similar agitators, are justified in forming new parties for the promotion of reforms.

18. Compulsory voting should be introduced by the various State governments.

19. The present powers of the Speaker of the House of Representatives are dangerously great.

20. Independent political action is preferable to party loyalty, as a means of securing reform.

21. A nation advanced in civilization is justified, in the interests of humanity at large, in enforcing its authority upon an inferior people.

22. The United States government is unsuited to the administration of colonial dependencies.

23. The Indian Agency system of the Federal government, as carried on since its establishment, is deserving of condemnation.

24. Municipal offices should be largely appointive,

as in Germany, instead of elective, as usually in the United States.

25. The membership of the national House of Representatives should be considerably reduced in size.

26. The United States government is justified in continuing the practice of choosing untrained private citizens for the diplomatic and consular service.

27. Any further centralization of power in the Federal government of the United States should be opposed by all citizens.

## FOREIGN AND INTERNATIONAL.

28. The disarmament of the European powers, to the minimum strength necessary for the maintenance of domestic police, is desirable.

29. A formal alliance between the United States and Great Britain, for the protection and advancement of their common interests, would be expedient.

30. England's aggressions in Africa are justifiable.

31. The United States government should exert itself to maintain the integrity of the Chinese Empire.

32. England should retain control of Egypt.

33. The treaty signed at The Hague gives promise of practical promotion of international peace.

34. The United States should insist on the absolute ownership of the proposed inter-oceanic canal.

## ECONOMIC.

35. The United States should maintain a system of bounties and subsidies for the protection of the American merchant marine.

36. The United States should establish commercial reciprocity with Canada.

37. Legislation directed against trusts is unwise.

38. The United States should continue to attempt the promotion of international bimetallism.

39. The tariff on goods imported into the United States should be fixed by a bi-partisan commission.

40. The United States should adopt the "Baltimore plan" of bank-note circulation.

41. The tax on the issues of State banks should be repealed.

42. It is economically disadvantageous to the United States to own territory in the tropics.

43. Granted that it is constitutional, the United States should impose a tariff on its tropical and semi-tropical dependencies.

44. The time has now come when the purely protective tariff should be withdrawn from goods the manufacture of which has been established in the United States.

45. The single-tax system would have advantages over the present systems of taxation.

46. The United States government should promptly retire all the outstanding legal tender notes.

47. Foreign-built ships, owned by American citizens, should be granted American register.

48. Reciprocity is a wise and practicable measure for encouraging American trade.

49. The growth of large fortunes should be checked by a graduated income tax and an inheritance tax.



## SOCIAL AND INDUSTRIAL.

50. Department stores have proved a benefit to municipal communities.

51. Employers are justified in refusing recognition to Labor Unions.

52. The United States government should take steps looking toward the purchase and control of all inter-State railways.

53. American cities should own and operate all surface-car lines within their limits.

54. State boards of arbitration, with compulsory powers, should be appointed to settle disputes between employers and employees.

55. Congress should prohibit the immigration into the United States of all persons who cannot read and write some language, dependents on qualified immigrants being excepted.

56. The elimination of private profits offers the best solution of the problem of the liquor traffic.

57. The States should prohibit the sale of all intoxicating liquors to be drunk on the premises, except with meals at *bona fide* hotels.

58. The United States government should grant uniform pensions to all citizens of the age of sixty and over.

59. Interference with strikes by judicial injunction is a menace to the liberties of the working classes.

60. State laws prohibiting all secular employment on Sunday should be repealed.

61. Permanent copyright should be granted by the United States.

62. Municipalities should own and operate public plants for the furnishing of light.

63. Vivisection should be prohibited.

64. Railway pooling should be permitted in the United States.

65. In times of depression either States or municipalities should furnish employment to the unemployed.

66. The boycott is a legitimate means of securing concessions from employers.

67. The prohibition of the liquor traffic is preferable to any system of license, wherever public opinion will sanction the passage of such a law.

68. Social entertainments given by individuals, involving lavish expense, are unjustifiable.

69. Profit-sharing, and cooperative methods generally, afford the most promising solution of the labor problem.

70. Public libraries, museums, and art galleries should be open on Sunday.

71. The prison system in the United States should be revised so as to be largely reformatory rather than punitive.

## LEGAL AND CONSTITUTIONAL.

72. Three-fourths of a jury should be competent to render a verdict in all criminal cases.

73. Congress should submit a Constitutional amendment providing for uniform Federal legislation regarding marriage and divorce.

74. All the guarantees and restrictions of the Con-

stitution apply to all territory which may be permanently controlled by the United States.

75. The annexation of territory to the United States by Joint Resolution of Congress, without a treaty, is unconstitutional.

76. The Supreme Court should reverse its decision of 1895, declaring an unapportioned direct tax on the income derived from real estate to be unconstitutional.

77. A seat should be granted to any Senator appointed by the Governor of a State, when the Legislature adjourned without filling the vacancy.

78. Legislation should be adopted looking toward greater difficulty in the invalidation of wills, and greater security in bequests.

79. An easier method of amending the Constitution of the United States should be proposed by Congress and adopted by the States.

80. The Constitution should be so amended as to grant Congress the general power to regulate manufactures and industry.

81. Life imprisonment, with a restricted power of pardon on the part of the executive, should be substituted for capital punishment.

82. The law governing judicial process should be so amended as to provide for the more speedy conduct of criminal cases, and fewer opportunities for delay in the execution of sentences imposed.

83. All judges of State courts, like those of the Federal courts, should be appointed by the executive, and hold office during life or good behavior.

84. The Constitution should be so amended as to permit the trial in the courts of contested election

cases involving membership in the United States Senate or House of Representatives.

### EDUCATIONAL.

85. Women should be admitted to all American universities on equal terms with men.

86. The fully elective system of studies should be introduced into all our colleges.

87. Compulsory manual training should be introduced into all grammar and high schools.

88. A city is the best location for a college.

89. The college course, leading to the degree of Bachelor of Arts, should be reduced to three years.

90. The reading of the Bible in the public schools should be prohibited.

91. Athletics have been excessively developed in American universities.

92. The regular college course should be further modified in the interest of those desiring to fit themselves for practical business careers.

93. A national University should be established at Washington.

94. The "honor system" should prevail in all college examinations.

95. Roman Catholics, and members of other religious sects, are justified in establishing parochial schools in opposition to those maintained by the State.

96. Freshmen should be excluded from all university athletic teams.

97. The education of the American negro should be industrial rather than liberal.

98. Education should be compulsory to the age of sixteen.

99. Military tactics should be taught in the public schools.

100. Religious denominations are justified in establishing colleges in the vicinity of State universities.



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